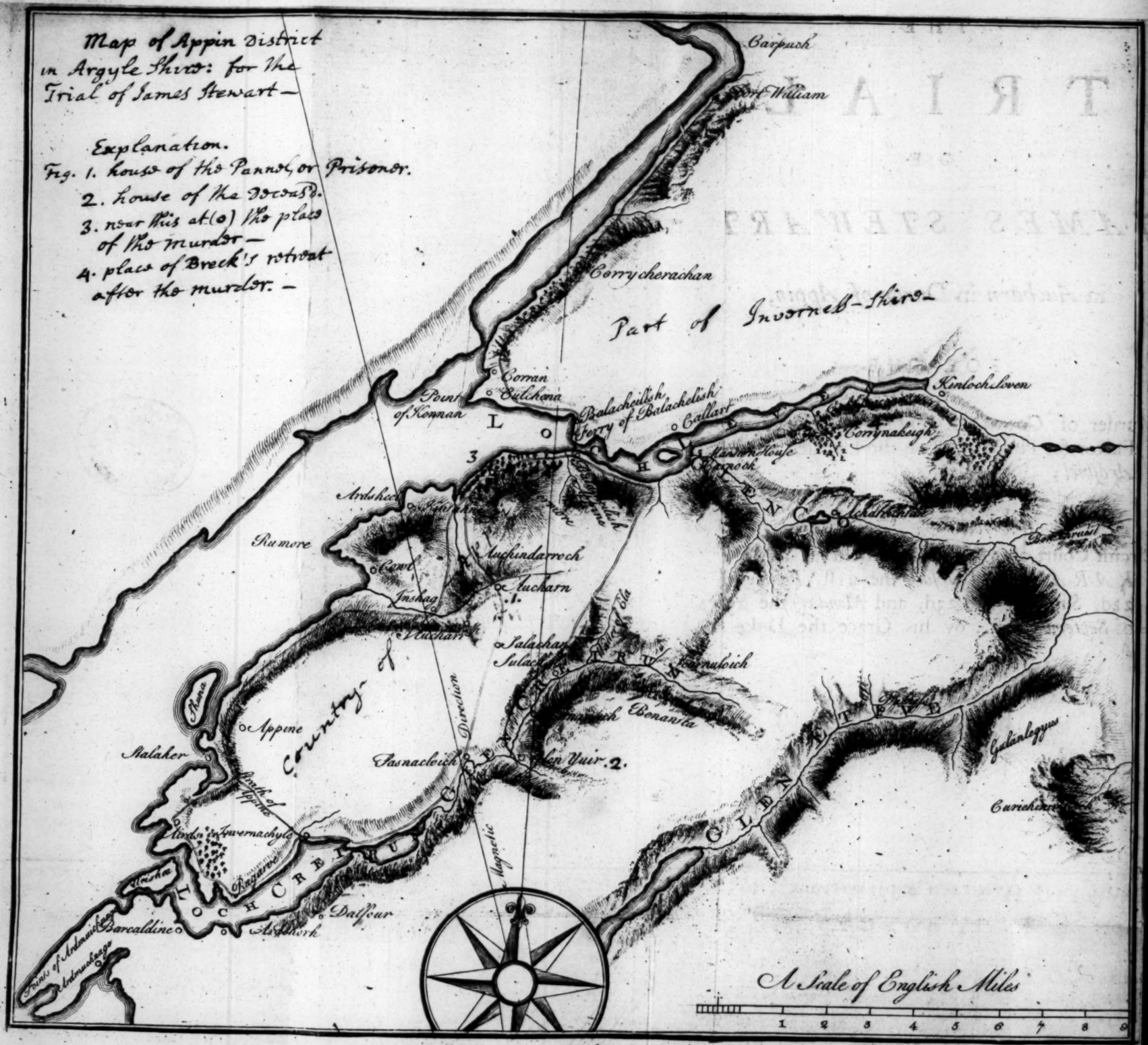

Map of Appin District
in Argyle Shire: for the
Trial of James Stewart –
Explanation.
Fig. 1. house of the Panne, or Prisoner.
2. house of the Deceas'd.
3. near this at (o) the place
of the murder –
4. place of Breck's retreat
after the murder. –
Carpuck
Fort William
Corrycherachan
Part of Inverneb-Shire
Corran
Culchona
Point
of Konnan
Balacheilish
Ferry of Balachelish
Callart
Kinloch Leven
Corrynakeigh
Ardshee
Rumore
Auchindarroch
Inshag
Auchairn
Salachan
Sulach
Benavia
Appine
Country of
Dirrelaire
Pasnacloich
Glen Yuir. 2.
Galanlegyus
Curichuire
Malaker
South of
Appine
Invernachyle
Regarne
Dalfour
Barcaldine
Ardsheork
Magnetic
A Scale of English Miles
1 2 3 4 5 6 7 8 9

THE TRIAL OF JAMES STEWART

in *Aucharn* in *Duror of Appin*,

FOR THE

Murder of COLIN CAMPBELL of *Glenure*, Esq; Factor for His Majesty on the forfeited estate of *Ardshiel*;

BEFORE THE

Circuit Court of JUSTICIARY held at *INVERARAY* on *Thursday* the 21st, *Friday* the 22d, *Saturday* the 23d, and *Monday* the 25th of *September* last; by his Grace the Duke of ARGYLL, Lord Justice-General, and the Lords ELCHIES and KILKERRAN, Commissioners of Justiciary.

EDINBURGH:

Printed for G. HAMILTON and J. BALFOUR. 1753.



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There is alſo annexed a plan of the ground referred to in the trial.

N. B. Pannel *means* the priſoner upon trial.

The CRIMINAL LETTERS, LIBEL or INDICTMENT.

GEORGE, by the grace of GOD, King of *Great Britain*, *France* and *Ireland*, defender of the faith: to our lovits,

macers of our court of juſticiary, meſſengers at rms, our ſheriffs in that part, conjunctly and ſeverally, ſpecially conſtitute, greeting: FORASMUCHAS it is humbly meant and complained o us, by our right truſty *William Grant* of *Prongrange*, Eſq; our advocate, for our intereſt, AND ALSO by our lovit *Janet Mackay*, daughter to he honourable *Hugh Mackay* of *Bighouſe*, Eſq; nd relict of the deceas'd *Colin Campbell* of *Glenre*, for herſelf, and on behalf of *Elizabeth* and *Lucy Campbells*, her infant children, with conourſe of our ſaid advocate, for our intereſt, UPON *James Stewart* in *Aucharn* in *Duror* of *Appin*, ommonly known or reputed to be the natural rother of *Charles Stewart* of *Ardſhiel*, attainted, nd preſent priſoner in *Fort-William*; and upon *Allan Stewart*, commonly called *Allan Breck Stewrt*, ſon to *Donald Stewart*, alias *Vic Ean Vic Alſter*, ſometime in *Inverchomrie* in *Rannoch*; and ince, or ſometime after the eighteenth day of *Aril*, One thouſand ſeven hundred and forty ſix, cadet or ſoldier in the *French* King's ſervice, or eputed in this country to have been ſuch.

THAT WHEREAS, by the law of God, and the aws of this and all other well governed realms,

MURDER is a moſt heinous crime, and ſeverely puniſhable, eſpecially when the ſame is committed deliberately, *and by lying in wait*, and from a malice conceived againſt the perſon ſo murdered, on account of the faithful diſcharge of the duty of his office.

YET TRUE IT IS, and of verity, that the ſaid *James Stewart* and *Allan Stewart*, commonly called *Allan Breck Stewart*, complained upon, are guilty, actors, or art and part of the ſaid heinous crime of murder, aggravated as aforeſaid, IN SO FAR AS the barons of our court of exchequer in *Scotland* having, by commiſſion dated the twenty third day of *February*, 1748-9 years, appointed the ſaid *Colin Campbell* of *Glenure* to be factor upon the lands and eſtate of *Ardſhiel*, forfeited to us by the attainder of the ſaid *Charles Stewart*, and lying within the ſhire of *Argyll* and in the neighbourhood of *Glenure*, the houſe of the ſaid *Colin Campbell*, and alſo appointed him factor on that part of the forfeited eſtate of *Lochiel*, called *Mamore*, lying in the ſhire of *Inverneſs*, and in the neighbourhood of *Fort-William*, and upon the forfeited eſtate of *Allan Cameron* of *Callart*, in the ſhire of *Inverneſs*, adjoining to the ſaid lands of *Mamore*, and lying betwixt *Fort-William* and *Appin*; he, the ſaid *Colin*, entered upon the ſaid office, and proceeding in the faithful execution thereof, did, among other things, at *Whitſunday* One thouſand ſeven hundred and fifty one, cauſe to be removed the ſaid *James Stewart* from *Glen-duror*, a farm of poſſeſſion that had been held by him on the ſaid eſtate of *Ardſhiel:* and in the month of *April*

In this preſent year 1752, the ſaid *Colin Campbell* had taken meaſures for cauſing to be removed at the term of *Whitſunday*, or fifteenth day of *May*, now laſt bypaſt, certain other perſons who were tenants or poſſeſſors of farms upon the ſaid lands or eſtate of *Ardſhiel*; WHICH PROCEEDING was by the ſaid *James Stewart*, for reaſons known to himſelf, ſo much reſented, that, without any warrant or authority from the tenants, or perſons themſelves, ſo intended to be removed, he, the ſaid *James Stewart*, in the month of *April* laſt, came in perſon to *Edinburgh*, and cauſed to be preſented, in name of the ſaid tenants, to our lords of ſeſſion, a bill of ſuſpenſion of the ſaid intended removing, upon divers affected reaſons, that were either falſe or frivolous; and having procured an order for anſwering ſaid bill, and a ſiſt of execution in the mean time, he returned into the country, and cauſed the tenants intimate the ſiſt to the ſaid *Colin Campbell*; who thereupon repaired to *Edinburgh*, where an anſwer having been made to the ſaid bill, the ſame was refuſed by the Lord ordinary, and the ſaid *Colin Campbell* returned to his own houſe at *Glenure*, where he might be in the way to attend the duty of his office, and to cauſe the ſaid removing to be put in execution, and the new tenants introduced to the lands on the ſaid fifteenth day of *May* laſt.———And on account of the ſaid *Colin Campbell*'s accepting of the ſaid office, and of the above mentioned and other his proceedings in the faithful diſcharge of the duty thereof, the ſaid *James Stewart*, and *Allan Breck Stewart*, conceived a moſt groundleſs

leſs and unjuſt reſentment, malice, and emmity *chaber*
againſt him, and at length entered into a wicke oceed i
conſpiracy, barbarouſly to murder the ſaid *Coli* nts of
Campbell, and to bereave him of his life by th ong o
hands of the ſaid *Allan Breck Stewart*, who ha l decla
but then lately come back from foreign parts in e of *In*
to that country, and intended ſoon to go agai vice, i
beyond ſea; and, during his ſaid laſt abode in th *lan Br*
country, had chiefly frequented the houſe an ich h
company of the ſaid *James Stewart*.———And at, ſca
in proſecution of this wicked conſpiracy, upo vet, w
Monday the eleventh day of *May* laſt, on th him
morning of which day the ſaid *Colin Campbe* e or
left his own houſe of *Glenure*, to go to *Fort* untry,
William, in the country of *Lochaber*, about th furni
diſtance of ſixteen computed miles northward, i th a ſu
order to tranſact ſome buſineſs relating to his fa ing a
ctory on the eſtate of *Lochiel*, and from whenc ns, tro
he was certainly expected to return to the land d *Alla*
of *Ardſhiel* before *Friday* in the ſame week, be o next
ing the fifteenth day of the ſaid month, when cer t, whe
tain tenants on the lands of *Ardſhiel* were to be re here th
moved, as above mentioned, and others introduce *ench* c
in their room; the ſaid *Allan Breck Stewart* went d then
from the houſe of *John Stewart* of *Faſnacloich*, d *Coli*
which lies near to *Glenure*, to the houſe of the ſaid urn fr
James Stewart at *Aucharn*, lying in the ſame neigh- *iel*, wh
bourhood, at the diſtance of about four miles t with
northward; and there the ſaid *James Stewart* was of *E*
informed, either by the ſaid *Allan Breck Stewart*, e fer
or by his own ſon *Charles Stewart*, or by the ſ
Stewart daughter to the ſaid *John Stewart* of *Faſ-* untry
nacloich, that they heard, or were informed, that *lamore*,
the ſaid *Colin Campbell* of *Glenure* was to go to e of
Lochaber

chaber that day, and that he was to perſiſt or ceed in the intended removing of the te- nts of *Ardſhiel*, (as the ſaid *James Stewart* has, ong other things, acknowledged in his judi- l declaration taken before the ſheriff-ſubſti- e of *Inverneſs*); and there, after receiving ſuch vice, in the evening of the ſame day, the ſaid *lan Breck Stewart* laid aſide his own cloaths, nich he had brought with him, being a blue at, ſcarlet veſt, and black breeches of ſhag or vet, which were believed to have been brought him from *France*, and which was a remark- le or diſtinguiſhing dreſs in that part of the untry, and then and there the ſaid *James Stew-* furniſhed him, the ſaid *Allan Breck Stewart*, th a ſuit of his, the ſaid *James*'s, own cloaths, ing a dark coloured ſhort coat, with ſilver but- ns, trowſers, and a blue bonnet, in which the d *Allan* dreſſed himſelf that evening.——And o next morning of *Tueſday* the twelfth of *May* t, when he left the ſaid *James Stewart*'s houſe, here the ſaid *Allan* left behind him his own *ench* cloaths aforeſaid, together with his hat, d then ſet out, in order to lie in wait for the d *Colin Campbell* on his way, when he ſhould turn from *Fort-William* to the lands of *Ard- iel*, which lands are bordered on the North- ſt with the lands belonging to *Alexander Stew- t* of *Ballacheliſh*, whoſe houſe ſtands near to e ferry of *Ballacheliſh*, upon a narrow arm the ſea called *Lochlevin*, that ſeparates the untry of *Appin* on the ſouth, from that of *lamore*, part of *Lochiel*'s eſtate, on the north e of it, and by which ferry of *Ballacheliſh*

it

it was known or expected, that the said C
Campbell would paſs, in his return from F
William; and, to the ſaid place of *Ballachel*
the ſaid *Allan Breck Stewart* directly went, fr
the houſe of the ſaid *James Stewart* at *Aucha*
on this *Tueſday* the twelfth of *May* laſt; a
from thence, the ſame day, accompanied
James Stewart the younger of *Faſnacloich*, w
to *Glenco*'s houſe in *Carnoch*, about three mi
farther eaſtward, where the dowager lady
the houſe is ſiſter to the ſaid *Charles Stewart* l
of *Ardſhiel*, and to her the ſaid *James Stewart*
natural brother; and, from thence, he w
that ſame day to the houſe of *Callart*, whi
ſometime belonged to *Allan Cameron* of *Calla*
attainted, and was ſtill inhabited by *Helen Ste*
art his widow, and alſo ſiſter to the ſaid *Cha*
Stewart of *Ardſhiel*, and to the ſaid *James Ste*
art, at which houſe he lodged all that *Tueſ*
night;——and, next day, being *Wedneſday*, t
thirteenth of *May* laſt, the ſaid *Allan Breck Ste*
art came back, after calling again at *Carnoch*,
the houſe of *Alexander Stewart* of *Ballacheli*
near the ferry aforeſaid, where he remained t
night following;—and, upon *Thurſday* the fou
teenth of the ſaid month of *May* laſt, when
might be certainly expected, that the ſaid *Co*
Campbell would return from *Fort-William* to t
lands of *Ardſhiel*, and country of *Appin*, by t
ſaid ferry of *Ballacheliſh*, the ſaid *Allan Bre*
Stewart waited about the ſaid houſe, till abo
twelve of the clock that day; and then, und
pretence of going a-fiſhing, walked up along
burn or rivulet near to the ſaid houſe to t
high

her grounds, from whence he had a proſpect he high-road leading from *Fort-William* to the ds of *Ardſhiel*, and acceſs by a ſhort paſſage the wood of *Lettermore*, ſtanding upon the ds of *Ardſhiel*, and adjoining to the ſaid road on ſouth ſide, about a mile diſtant from the houſe ferry of *Ballacheliſh*; and, having poſted him- in the ſaid wood, near to the high road, by ich the ſaid *Colin Campbell* was to paſs, at a venient ſtation for his wicked purpoſe, where had brought, or cauſed to be brought and pla- one or two guns, or muſkets, loaded, with ich he continued ſome time concealed in the od; and, at length, about five or ſix o'clock he afternoon of the ſaid fourteenth day of *May*; the ſaid *Colin Campbell* having paſſed the y of *Ballacheliſh*, and been conveyed by the *Alexander Stewart* of *Ballacheliſh* from the y to the entrance of the wood of *Lettermore*, he continued his journey, paſſing on horſeback ng, or through the ſaid wood, accompanied *Donald Kennedy* a ſheriff's officer of *Argyll-re*, who was on foot, and had got ſome ſpace fore him, the road being bad for horſes, and *Mungo Campbell* writer in *Edinburgh*, a young n, who was then riding a little way before n; and behind him, at ſome diſtance, was *John ckenzie* ſervant to the ſaid *Colin*, and alſo on rſeback.

And then and there, the ſaid *Allan Breck wart* fired upon the ſaid *Colin Campbell* from hind his back, and ſhot him through the body h two balls, of which wounds the ſaid *Colin Campbell*

Campbell died upon the ſpot, in leſs than an h after.

Whereupon the ſaid *Allan Breck Stewart* ſconded, and, from that time, appeared no lon openly in the country; but, during the night lowing, or about three o'clock in the morn of *Friday* the fifteenth day of *May* laſt, he ca to *Carnoch*, the houſe of *John Macdonald Glenco* above mentioned, where he knocked a window when the family were all in bed; the ſaid *John Macdonald* of *Glenco*, and *Iſobel St art* his ſtepmother, got up, and went to the d to the ſaid *Allan*, who then told them, that ſaid *Colin Campbell* had been ſhot dead the ev ing preceeding, in the wood of *Lettermore*, that he, the ſaid *Allan*, was leaving the coun and going the moor-road, and was come to t leave of them, the ſaid lady, and *Glenco* ſon-in-law, which he immediately did, and w away, without entering the houſe, tho' he invited by the lady to come in, and take ſo refreſhment there.

That, in the mean time, the ſaid *James Stew* complained upon, remained at his own houſe *Aucharn*, from which, on the morning of *Th day*, the fourteenth of *May* laſt, he ſent a let by *John Maccoll* his ſervant, to *Charles Stew* writer in *Auchintour*, in which, *inter alia*, writes, " As I have no time to write to *Willi* " let him ſend down immediately 8 *l. Sterling* " pay four milk cows I bought for his uſe at *A* " *ſhiel*." And as he, the ſaid *James*, hath ju cially declared, (when examined at *Fort-W liam*, on the ſecond of *June* laſt, in preſence

Geo

eorge Douglas ſheriff-ſubſtitute of *Inverneſs-ſhire*) did not ſee the ſaid *Allan Breck Stewart* after e murder; but upon notice being brought to e ſaid *James Stewart* complained on, at his vn houſe at *Aucharn*, immediately after it hapned, on the ſaid *Thurſday* evening, by the ſaid *ohn Mackenzie*, ſervant to the ſaid now deceas'd *lin Campbell*, who, having left the ſaid *Mun- Campbell* to attend the corpſe where it lay, de away to get help or aſſiſtance for tranſportg the ſame to ſome fit houſe or place; the ſaid *ames Stewart*, complained upon, appeared noays ſurpriſed or concerned at the news of the urder; and neither he, nor any of his family, ent to look after the corpſe, or to aſſiſt in the rrying it, as others of the neighbourhood did. nd, upon the morning, or about noon of the y following the murder, being *Friday* the fifenth of *May* laſt, the ſaid *James Stewart*, comained upon, ſent *Alexander Stewart* travelling ckman in *Appin*, to *William Stewart* merchant *Maryburgh*, with directions to get from the id *William* five pounds *Sterling*, or five guineas; nd then told the ſaid packman, that his friend *llan Breck Stewart* was going to leave the couy; and that it was *incumbent* on him the ſaid *ames*, to ſupply him with money; whereupon, e ſaid packman, that ſame day, repaired to *Fort-Villiam*, and delivered his ſaid meſſage from the id *James Stewart*, to the ſaid *William Stewart*, ho immediately cauſed his wife bring the packan *three guineas*,—with which the packman rerned the next day, being *Saturday*, the ſixteenth *May* laſt, back to the ſaid *James Stewart*'s houſe

at *Aucharn*; and, upon his arrival there, foun
the ſaid *James Stewart* priſoner, in the cuſtod
of a party of ſoldiers; and the ſaid packma
being allowed to converſe privately with the ſa
James Stewart and his wife; and having inform
ed him, that he had only received three guine
from *William Stewart* at *Maryburgh*, the ſa
James Stewart took out of his purſe two guinea
which he gave to his wife, deſiring her to gi
the ſame to the packman; to go with theſe, a
the three guineas he already had, and alſo wi
Allan Breck Stewart's cloaths to him, the ſaid *A*
lan: and, accordingly, on the evening of th
ſame *Saturday*, after the ſaid *James Stewart* h
been carried off priſoner to *Fort-William*, his wi
brought the ſaid *Allan Breck Stewart*'s cloaths
bove mentioned, to the packman, and deliver
the ſame tied up in a bundle to him, containi
a pair of red breeches, beſides the black breech
above mentioned, that were the property of t
ſaid *Allan* himſelf; and, at the ſame time, delive
ed to the packman the *two guineas*, above mentio
ed, which ſhe had received from her ſaid huſban
for that purpoſe, and directed the packman to
with *the cloaths and the five guineas*, and deliver t
ſame to the ſaid *Allan Breck Stewart*, whom
would find or hear of at the houſe of *John Ma*
col, *bouman*, having the charge of milk cows up
a farm or ſhealing belonging to *Dougal Stewart*
Appin, at a remote or ſolitary place called *Koal*
nacoan; and the ſaid packman, after getting
ſupper at *Aucharn*, ſet out, on this errand, accor
ingly that ſame night:—that, in the mean time,
the afternoon of the ſaid *Saturday*, the ſixteen

May laſt, the ſaid *Allan Breck Stewart* was ſeen the ſaid *John Maccol*, *Appin*'s bouman, in the eugh of *Corrynakiegh*, a part of the farm of *oaliſnacoan*; where, as the bouman was cutting e-wood, he heard a whiſtle, and, looking a-out, obſerved a man, at a conſiderable diſtance, eckon to him, whom, upon his going up to m, he found to be the ſaid *Allan Breck Stewart*, ho ſaluted him by aſking him how he did? and e bouman returned the ſalute, and told the ſaid *llan*, he was afraid it was no good action occa-oned his being in *ſuch a ſolitary place*; upon hich the ſaid *Allan* aſked him, what he meant y that? and the bouman anſwered, that he would, ithout doubt, be ſuſpected of *Glenure*'s murder, ho, he heard, was ſhot in the wood of *Letter-ore*; and that there were *two men* ſeen go from e place where the action was committed; to hich the ſaid *Allan* replied, that, if he was ghtly informed, there was *but one perſon* con-rned in the murder; and, talking further of the atter, ſaid, he did not doubt the family of *Ard-iel* would be ſuſpected of the murder; and that e believed *James Stewart* and his ſon would be ken up in conſequence of their difference with *lenure* about the *lands*; but that their being ken up would not be of any conſequence to em, as there would be no proof, *unleſs their n tongues betrayed them*; and, upon the bou-an's ſaying, that he wiſhed he, the ſaid *Allan*, ould leave his neighbourhood, *Allan* told him e could not, *till he was ſupplied with money* and ctuals; and inſiſted with the bouman, that he ould go to the ſtrath of *Duror*, (where the

ſaid

ſaid *James Stewart*'s houſe of *Aucharn* lies) fo eceive *money*, and to the lady *Glenco* for a peck o *ſent a* meal, both which the bouman appearing to de *ed* he cline, the ſaid *Allan* added, that he, the bouma was th muſt go to *Fort-William* with a letter (which th the pa ſaid *Allan* then wrote with a wood-pigeon's qui ch he he had gathered among the trees) to *Willia* ſaid *Stewart* merchant in *Maryburgh*, who, he ſai ; but would give him money upon receipt of the le he w ter ; and the bouman having alſo refuſed to com nt, tha ply with this propoſition, giving for his excuſ n his that he heard that all that went to *Fort-Willia* been at that time were taken into cuſtody, the ſaid *A nes St lan* further told him, that unleſs he ſhould be ſu refore plied, from ſome *other quarter*, before *next da guinea* that he, the bouman, muſt go to *Fort-Willia n Bre* notwithſtanding theſe difficulties, and that h *ths*, w *Allan*, was *ſurpriſed* there was *no money ſent hi of a* though it was *promiſed to be ſent him to th* nted o *place*.——That very early in the morning of *Su* ver bo *day* the ſeventeenth of *May* laſt, the ſaid *Jo* n the *Maccol*, bouman, went out of his houſe, to look a p in th ter ſome cattle that he apprehended were among he ſa his corns, and then obſerved, coming towar r the ſ him, from the weſtward, a man whom, at a d e to ſtance, he took to be *Allan Breck Stewart*, bu *ck Ste* upon his nearer approach found him to be th ſaid b ſaid *Alexander Stewart* packman, who, upon h ter of coming up to him, after the ordinary ſalut ſaid b tions, aſked the bouman if he had ſeen *All* when *Breck Stewart*? which the bouman having den red at ed, the ſaid packman told him, that *he had mon* ll, told *and cloaths* for the ſaid *Allan*, which he (*Alla* n whi had *tryſted* (or agreed with ſome other perſo rned w

es) fo eceive at that place from any one who ſhould eck o *ſent after him with it*, and then the bouman to de *ed* he had ſeen him, the ſaid *Allan*, and that oumar was then in the heugh of *Corrynakiegh*, and ich th the packman, that if he went to an eminence, 's qui ch he pointed out to him, and *whiſtled*, that *Willia* ſaid *Allan Breck* would probably *appear to* e ſaid ; but this the packman declined, complaining he le he was ſo fatigued with travelling the whole o com nt, that he would not go, having been lately excuſ n his own buſineſs at *Fort-William*, and ha- *Willia* been obliged to go there again on the ſaid aid *A nes Stewart*'s errand above mentioned; and be ſup efore deſired the ſaid bouman to deliver the *xt da guineas*, which he then gave him, to the ſaid *Villia n Breck Stewart*, together with *a bundle of* hat h ths, which he, the packman, had left at *the nt hi of a fir tree* then in their view, which he *to th* nted out to the ſaid bouman, who promiſed to of *Su* ver both to the ſaid *Allan* as deſired; where- d *Jo* n the packman, being much fatigued, went to ook a p in the bouman's houſe;—and in the evening mong he ſame *Sunday*, the ſeventeenth of *May* laſt, towar r the ſaid *John Maccol*, bouman to *Appin*, was t a d e to bed, he was awaked by the ſaid *Allan t*, bu *ck Stewart* his knocking at the window of his, be th ſaid bouman's, houſe; whereby the board or pon h tter of his ſaid window fell in; whereupon ſalut ſaid bouman got up from his bed, and went *Alla* when he found the ſaid *Allan Breck Stewart* g den red at ſome diſtance from his houſe, who, firſt *d mon* ll, told him he ſtood in great need of a drink; *Allan* n which the bouman went into his houſe, and perſon rned with a noggan or diſh full of milk and

water

water that had been boiled, which noggan
bouman carried in his hand, in company with
ſaid *Allan*, till they came together to the brink
a burn or rivulet not far from the bouman's hou
and, at this meeting, the ſaid *Allan Breck* aſk
the bouman, whether there had any body come
that place with a *meſſage for him?* which the bo
man anſwered in the affirmative, and then g
the ſaid *Allan* the *five guineas* he had receiv
from *Alexander Stewart* the packman; u
which the ſaid *Allan Breck Stewart* ſaid, he
ped that would do without his ſending to *Will*
Stewart at *Fort-William*, and inquired if *any th*
elſe had been brought for him? whereupon
bouman delivered to him the *bundle of clo*
above mentioned, that had been left by *Al*
ander Stewart the packman, for that purpoſe,
the *fir-tree*; and then the ſaid *Allan* requeſ
and intreated the bouman to meet him at
place next morning early, that he might d
ver to him *the dark coloured coat* mounted w
ſilver buttons, and a pair of *trowſers*, which
ſaid *Allan* then wore and had upon him,
which he told the bouman were the property
the ſaid *James Stewart* in *Aucharn*, to the
that the bouman might reſtore and deliver th
cloaths to the ſaid *James*, or to *Margaret St*
art his wife; and the ſaid bouman promiſed
meet the ſaid *Allan* next morning, as he d
red;——and accordingly the bouman repair
next morning before ſun riſe, to the place
pointed, at the ſide of the rivulet, for their me
ing, where he did not find or ſee the ſaid *A*
himſelf, but found there the black or dark
lou

red coat and trowſers before deſcribed, toge-
r with his own noggan or diſh in which he
brought the milk and water to the ſaid *Al-*
, and, in one of the pockets of the ſaid ſhort
t, the ſaid bouman found a ſmall *powder-horn*,
flat make, with ſome carving upon the horn,
red wax on the inſide thereof for mending a
or hole;—that, from this place the ſaid *Allan*
ck Stewart withdrew from that country *a-croſs*
moors, as he propoſed, by going a-croſs moun-
s and deſarts, where there was no dwelling-
uſe for the ſpace of about eighteen computed
es eaſtward, to the country called *Rannoch*, in
northweſt corner of *Perth-ſhire*, where the
ther of the ſaid *Allan Breck Stewart* and o-
r friends or relations of his, live; amongſt
om he kept himſelf concealed for a few days,
was there ſeen with the aforeſaid *French*
ſs, and a pair of *red breeches*; after which he
hdrew from that country, and has not been
e ſeen or heard of, in this kingdom, that the
mplainers have been able to learn.——And in
etter, wrote by the ſaid *James Stewart*, ſince
was taken into cuſtody, on account of ſaid
rder, bearing date at *Fort-William* the nine-
nth day of *May* laſt, and addreſſed *to Mr. John*
cfarlane writer to the ſignet, wherein the ſaid
mes profeſſes great deteſtation of the murder,
great deſire that the ſaid *Allan Breck Stew-*
might be apprehended, and, for that pur-
e, deſcribes the perſon and dreſs of the ſaid
lan; he, *inter alia*, ſays, that he, the ſaid *Al-*
, wore a pair of *red breeches*.

FROM

FROM ALL WHICH, and other facts and c
cumſtances, that will be proved againſt the ſa
perſons complained upon, and particularly
threatenings of death and deſtruction which
ſaid *James Stewart*, and the ſaid *Allan Br*
Stewart, above complained upon, have been he
to utter againſt the ſaid *Colin Campbell* of *Glen*
now bereaved of his life, by the horrid mur
and aſſaſſination aforeſaid, it will be made
dent and proved, that the ſaid *James Stew*
and *Allan Breck Stewart*, complained upon,
each of them, are guilty, actors, or art and
of the ſaid horrid murder.

And, as a part of this proof, there will be p
duced certain documents in writing, and o
particulars enumerated and contained in an inv
tory or liſt thereof, ſigned by the complainer
either of them, copies of which liſt or inve
ry will be delivered to, or ſerved upon the
ſons complained upon, at the time of execu
this libel; and the ſaid written documents
other particulars themſelves will, before trial,
lodged in the hands of the clerk to the cir
court of juſticiary, before which the per
complained upon are to be tried, that they
ſee the ſame.

AT LEAST, at the time and place afore
the ſaid *Colin Campbell* of *Glenure* was barbaro
murdered, and the ſaid *James Stewart* and *A*
Breck Stewart above complained upon, are g
ty, actors, or art and part of the ſaid murder

ALL WHICH, or part thereof, being found
ven by the verdict of an aſſize, before our L
Juſtice-general, Juſtice-clerk, and Commiſſ

rs of juſticiary, in a circuit court of juſticiary, be holden by them, or any one or more of their umber, within the burgh of Inverary, upon he twenty firſt day of September next to come, . S. the ſaid James Stewart and Allan Breck tewart complained upon, both, or one or other f them, who ſhall be ſo convicted, ought to be uniſhed with the pains of law, to the terror of thers to commit the like execrable crime in time oming. OUR WILL IS, *&c.*

Ex deliberatione dominorum commiſſionariorum juſticiarii.

ROBERT LEITH.

C LIST

LIST of Witneſſes to be adduced for provin the foregoing criminal libel.

MUngo Campbell writer in Edinburgh.
John Mackenzie late ſervant to the ſaid Colin Campb of Glenure.
Donald Kennedy one of the ſheriff-officers of Argyll-ſhire, ſiding at Inverary.
Alexander Campbell chirurgeon in Lorn.
Patrick Campbell nephew to the ſaid Alexander.
Patrick Campbell of Achnaba, chirugeon in Lorn.
John Flockhart writer in Edinburgh.
Lauchlen Maclaren in Cadderly.
Donald Maccol in Aucharn.
Mary Stewart ſpouſe to the ſaid Donald Maccol.
John More-Maccol late ſervant to the ſaid James Stewart Aucharn.
Duncan Maccol, *alias* Macewan Duie, in Ardſhiel.
John Macchombich in Ardſhiel.
John Stewart elder of Faſnacloich.
Charles Stewart writer in Banavie and notary-publick.
James Glaſs writer in Maryburgh and notary-publick.
Archibald Macinnes ferryman of Ballacheliſh.
More Macintyre ſpouſe to Donald Macdonald in Balloch.
Alexander Stewart of Ballacheliſh.
John Roy-Livingſton, *alias* Macanure, in Ballacheliſh.
Duncan Macchombich in Auchindarroch.
John Maccol ſhoemaker in Auchindarroch.
Mary Mackenzie ſpouſe to the ſaid John Maccol.
Niel Maclaren in Aucharn.
John Maccol in Auchindarroch.
John Maccol in Auchindarroch.
Mary Maccol ſpouſe to the ſaid John Maccol.
John Breck-Macchombich change-keeper, late in Kintall now in Fort-William.
William Stewart merchant in Maryburgh.
Ewan Glaſs-Mackenzie reſidenter in Maryburgh.
John Maccorquodale late in Lettermore, now in Ballachelif
Alexander Stewart of Innernachyle.
Ewan Macintyre in Duchelly, late herd in Glen-duror.
Alexander Campbell in Teynaluib.

hn Maccol, *alias* Beg Maccol, ſervant to the ſaid James Stewart in Aucharn.
ugald Maccol likewiſe ſervant to the ſaid James Stewart.
wan Murray vintner at weſt end of Lochearn.
olin Maclaren merchant in Stirling.
rah Cameron widow in Lettermore.
hn Macchombich late in Ardſhiel, now in Keil in Duror.
uncan Campbell change-keeper in Annat in Appin.
nne Maclaren ſervitrix to the ſaid Duncan Campbell.
obert Stewart ſon to Robert Stewart miller in Cuil.
uncan Stewart ſenior in Cuil.
ugald Stewart of Appin.
alcolm Bane-Maccol change-keeper in Portnacroiſh.
nne Maccol ſpouſe to the ſaid Malcolm Bane-Maccol.
hn Maccol late ſervitor to the ſaid Malcolm Bane-Maccol, now in Shewna in Appin.
gus Macdonald wauk-miller in Achchoſragan.
exander Cameron ſometime forreſter of Mamlorn, now in Inneruſkievoulin.
homas Clerk, one of the maſons employed in building the bridges upon the high roads leading from Fort-William, ſometime reſidenter in Dunkeld.
ugald Carmichael formerly in Cuil, now in Auchindarroch.
ne Cameron ſervant to the ſaid James Stewart in Aucharn.
tharine Maccol ſervant to the ſaid James Stewart.
mes Stewart younger of Faſnacloich.
hn Stewart younger of Ballacheliſh.
nald Macintyre in Aucharn.
ry Cameron ſpouſe to the ſaid Donald Macintyre.
exander Stewart ſenior, in Lagnahaw.
exander Stewart junior, in Lagnahaw.
chibald Cameron ſon to Allan Dow-Cameron, ſometime change-keeper in Maryburgh.
hn Macdonald of Glenco or Pollivieg.
an Stewart in Laroch.
hn Stewart in Laroch elder.
hn Stewart younger in Laroch.
wan Macinnes in Laroch.
nald Stewart in Ballacheliſh.
bel Stewart relict of Alexander Macdonald of Glenco.
len Stewart relict of Allan Cameron of Callart.
nald Rankine herd to Alexander Stewart of Ballacheliſh.
ncan Macvicar collector of the cuſtoms at Fort-William.

Mr.

Mr. Archibald Campbell of Stonefield.
Solomon Maccol merchant in Achindarroch.
Mary Macdonald ſpouſe to Donald Macinnes in Liekintuim.
Alexander Stewart, *alias* Bane Stewart, travelling packman in Appin.
John Breck Maccol ſervant or bouman to Dugald Stewart in Appin, at Koaliſnacoan in Glenco.
Anne Macinnes ſpouſe to the ſaid John Breck Maccol.
Anne Carmichel ſpouſe to Donald Macachananich, at Koaliſnacoan.
Donald Oig Mackendrick in Bracklet.
James Macdonald brother to the deceas'd Alexander Macdonald of Glenco.
John Cameron younger of Kenlochleven.
Thomas Baird ſerjeant of general Pultney's regiment of foot.
Archibald Menzies corporal of ſaid regiment.
Margaret Stewart houſe-keeper to Alexander Stewart of Ballacheliſh.
Everick Macchombich ſpouſe to John Breck-Macchombich, late change-keeper in Kintalin, now in Maryburgh.
Donald Macintyre, formerly in Aucharn, now in Auchindarroch.
Mary Macdonald ſiſter to Alexander Macdonald of Glenco, deceas'd.
Chriſtian Macintyre widow in Carnoch.
Duncan Stewart, *alias* Roy-Stewart jun. in Cuil.
Duncan Stewart change-keeper in Teynahynſaig.
John Roy-Stewart, ſon to the deceas'd Alexander Stewart, brother to John Stewart of Faſnacloich.
Patrick Campbell ſurveyor, or inſpector of the cuſtoms at Inverary.
John Macchombich late in Ardſhiel, now in Keil.
John Macchombich in Ardſhiel.
Duncan Maccol in Ardſhiel.
Captain David Chapeau of general Pultney's regiment of foot.
John Macintyre tenant in Kenlochetive.
Malcolm Macintyre tenant in Dallicheliſh.
Ewan Maccol at Koaliſnacoan.
Margaret Campbell in Auchindarroch.
Mary Walker ſpouſe to John Maccol in Auchindarroch.
John Maccol ſhoemaker in Auchindarroch.
John Dow-Maccol in Auchindarroch.
Duncan Maccol ſervant to Mildret Maccol in Cuil.

Donal

ld Maccol in Auchindarroch.
aret Stewart in Auchindarroch.
rine Macphail in Auchindarroch.
Dow Maccol herd to the ſaid James Stewart in Auchara.
Maccol ſmith in Auchar.
Maclaren in Barnamuik.
an Macchombich late in Barnamuick, now in Lagnahaw.
Macchombich his ſpouſe.
Macinnes late ſervitrix to John Breck Maccol.
Campbell in Lettermore.
nuer Campbell in Sallachan.
nder Cameron of Glenevis.
Stewart of Inverchada, ſon to the deceas'd Mr. Duncan
wart miniſter in Athol.
s Man change-keeper, or miller in Inverchada.
Oig Cameron in Arlarich in Rannoch.
an Stewart travelling chapman in Rannoch at Arlarich.
nder Dow-Cameron in Inverchomrie in Rannoch.
an Roy-Cameron ſon to the ſaid Alexander Cameron.
nder Campbell late in Carragunan in Rannoch.
k Edmiſton of Newton.
, *alias* Ewan Roy-Maccol at Drumlean, brother to John
ck Maccol at Koaliſnacoan.
Cameron of Faſtern.
s Cameron brother to Glenevis.
s Drummond, *alias* Macgregor, *alias* James More, late
ant in Innervonachile.
an Drummond, *alias* Macgregor, in Strathire.
es Stewart of Bohalie.
Stewart daughter to Duncan Stewart, uncle to Charles
wart, late of Ardſhiel.
Stewart tenant in Achnacoan.
Cameron, *alias* Macmartine, tenant in Inchſhrie.
Cuming miller in Bunrie.
Roy Macnab daughter to the deceas'd Alexander Macnab,
o was brother to John Macnab of Bovain.
Maclean barber in Maryburgh.
an Roy Macmillan, *alias* Macilivoil, reſidenter in Loch-
aig.
or Sarah Stewart ſiſter to Duncan Stewart in Arlarich,
Rannoch.
Stewart of Fincaſtle.
Campbell late in Inn(rchomrie, now in Edinburgh.

George

George Douglas ſheriff-ſubitute of the ſheriffdom of Inverneſs.

———Watt ſpouſe to William Stewart merchant in Montburgh.

John Crawfurd Eſq; lieutenant-colonel of general Pultney's regiment of foot.

John Breck Macintyre herd in Glenduror.

John Campbell of Balleveolan.

Patrick Campbell in Auchinſacallan.

Donald Bane Maccol in Auchinacroſh, in Leſmore.

Donald Maccol, *alias* Vic Ean Roy, there.

Donald Ferguſon in Corriyeyll, in Glenurchay.

Duncan Stewart elder of Auchnacon, in Glenco.

Duncan Stewart younger of Achnacon, in Glenco.

WILL, GRANT

VENTARY of writings to be lodged in the clerk's hands, and to be made uſe of at the aforeſaid trial.

COmmiſſion granted by the Barons of his Majeſty's exchequer to Colin Campbell of Glenure, Eſq; to be factor upon the lands and eſtate of Charles Stewart late of Ardſhiel, &c. dated 23d February 1748-9.

Principal inſtructions from the ſaid Barons of his Majeſty's exchequer to the ſaid Colin Campbell, dated 25th July 1751, relative to his office as factor.

Precept of removing and ejection, upon a decreet at the inſtance of the ſaid Colin Campbell, againſt John Colquhoun and others, tenants of the eſtate of Ardſhiel, before the ſheriff of Argyll, dated the 13th April 1752.

Office copy bill of ſuſpenſion preſented to the court of ſeſſion by the ſaid tenants, complaining of the above decreet, with ſiſt thereupon, dated 18th April 1752, and principal deliverance thereon of the Lord Haining Ordinary on the bills, refuſing the ſaid bill, dated 5th May 1752,—with copy anſwers to the ſaid bill for his Majeſty's advocate and the ſaid Colin Campbell the factor.

Judicial rental of the eſtate of Ardſhiel, as given into the exchequer by Mr. David Bruce one of the general ſurveyors, dated 12th September 1748,—with abſtract thereof.

6. Three

6. Three judicial declarations by the ſaid Ja Stewart, emitted before the ſheriff ſubſtitut Inverneſs; two of them upon the 2d, and third upon the 3d Days of June 1752.
7. Principal holograph letter, by Allan Stew ſon to the ſaid James Stewart, addreſſed to D can Stewart of Glenbucky, dated at Auch the firſt of April 1752,—part of the begin torn off.
8. Principal holograph letter by the ſaid Ja Stewart to Charles Stewart writer in Auc tour, dated at Inver, the 27th of April 1
9. Another principal holograph letter by the James Stewart to the ſaid Charles Stewart, ted the 14. of May 1752.
10. Principal holograph letter by William Ste merchant in Maryburgh to the ſaid Ja Stewart, dated 14. May 1752.
11. Principal holograph letter by the ſaid Ja Stewart to Mr. John Macfarlane writer to Signet, dated at Fort-William, the 19. 1752.
12. Draught letter by the ſaid James Stew and of an inſtrument of proteſt at the tena inſtance, relative to the ſaid decreet of re ving and ſuſpenſion thereof.

There is likewiſe to be produced,

Two guns found concealed near the James Stewart's houſe at Aucharn, ſome after the murder.

Item, A black ſhort coat with ſilver butt found in the ſaid James Stewart's houſe at charn.

m, Another black ſhort coat, with ſilver buttons, with a pair of tartan trowſers, and a powder horn.

m, The coat, waiſt-coat, breeches, and ſhirt which the ſaid Colin Campbell had on when he was murdered.

There is further to be produced,

wo principal declarations by Allan Stewart, ſon to the ſaid James Stewart, emitted before the ſheriff-ſubſtitute of Inverneſs, the 3d of June 1752.

ve principal declarations by Charles Stewart, alſo ſon to the ſaid James Stewart, emitted four of them before the ſheriff of Argyll, the 22d, 23d, and 25th days of May, and one before the ſheriff of Inverneſs, the 4th of June 1752.

hree principal declarations by Margaret Stewart ſpouſe to the ſaid James Stewart, and two by Elizabeth Stewart his daughter, before the ſheriff of Argyll, 22d, and 25th May 1752.

WILL. GRANT.

D LIST

LIST of the perſons names and deſign
tions that are to paſs upon the aſſi
of the ſaid James Stewart and the ſa
Allan Breck Stewart.

ARGYLL-SHIRE.

Donald Campbell of Airds.
Dugald Stewart of Appin.
Colin Campbell of Carquhin.
John Maclean of Lochbuie.
5 Donald Campbell younger of Scammadale.
Duncan Campbell in Oban.
Duncan Campbell at Aroſs.
Archibald Campbell of Knockbuie.
Dugald Macdugal of Gallanach.
10 Donald Campbell bailie of Lochinnel.
James Fiſher of Duren.
Alexander Duncanſon of Kills.
Archibald Campbell of Ormſary.
John Richardſon merchant at Inverary.
15 Duncan Campbell of South-hall.
Hector Macniel of Ardmeaniſh.
Archibald Campbell of Clachanſeil.
James Campbell late bailie of Inverary.
James Campbell of Raſcheilly.
20 James Campbell of Rudale.
Angus Campbell of Ardlarich.
Colin Gilleſpie of Bailliemoir.
Colin Campbell of Skipniſh.
Duncan Campbell of Glendaraul.
25 Hugh Campbell of Lix.
Niel Campbell of Dunſtaffiniſh.
Alexander Campbell of Ballochiel.

Colin Campbell of Kildalvin.
Colin Campbell of Ederlin.
Niel Campbell of Duntroon.
Archibald Campbell of Jura.
Duncan Maclauchlan of Croich.
John Campbell younger of Ottir.
Archibald Campbell of Daill in Craigniſh.

BUTE-SHIRE.

Archibald Davie in Glenroſſie in Arran.
John Brown in Glenſhervig.
Donald Brown there.
Alexander Fullertoun in Brodick.
Thomas Macninch in Clachlands.
Duncan Macmaſter in Lamblaſh.
William Hunter in Letter.
Andrew Macbryde in Monimore.
John Macbryde in Achincairn.
James Stewart in Mid-Kiſkidale.
Alexander Stewart in South-Kiſkidale.

CH. ARESKINE.
ALEX. FRASER.
HEW DALRYMPLE.

B. The execution of the criminal letters, againſt James Stewart perſonally, was upon the 21ſt Day of Auguſt 1752, and the executions againſt Allan Breck Stewart, at Aucharn was upon the 24th day of the ſaid month of Auguſt, and at the market-croſs of Inverary the 25th day of the ſaid month of Auguſt.

Curia

Curia itineris juſticiarii, S. D. N. Regis, tenta pud burgum de Inverarii, viceſimo primo die m ſis Septembris, anno Domini milleſimo ſeptinge ſimo quinquageſimo ſecundo, N. S. per nobilem præpotentem Principem Archibaldum Ducem Argyll, Dominum Juſticiarium Generalem, Patricium Grant de Elchies, armigerum, et minum Jacobum Ferguſon de Kilkerran, Dom Commiſſionarios Juſticiarii dicti, S. D. N. Re

Curia legitimè affirmata.

His Majesty's Advocate moved, that criminal letters at his inſtance, for his Majeſty's tereſt, and alſo at the inſtance of *Janet Ma* daughter to the honourable Hugh Mackay of houſe Eſq; and relict of the deceas'd Colin Camp of Glenure, for herſelf, and on behalf of *Eliza* and *Lucy Campbells* her infant children, with c courſe of his ſaid Majeſty's advocate, for his jeſty's intereſt; againſt *James Stewart* in Auch in Duror of Appin, commonly known or repu to be the natural brother of Charles Stewart of Ardſhiel, attainted; and *Allan Stewart* co monly called *Allan Breck Stewart*, ſon to Don Stewart *alias* Vic Ean Vic Alliſter, ſometime Inverchomrie in Rannoch, and ſince, or ſometi after the eighteenth day of April one thouſ ſeven hundred and forty ſix, a cadet or ſoldier the French king's ſervice, or reputed in this co try to have been ſuch, might be called. And ſame being accordingly done, and the above *A Stewart*, commonly called *Allan Breck Stew* being oft and diverſe times called publickly by ma

er of c
he cou
ven the
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er of court, and thrice called at the outer door
he court-houſe, to have compeared and un-
yen the law for the crime of murder commit-
by him upon the ſaid deceas'd Colin Campbell
Glenure, in manner at length mentioned in the
criminal letters, he having been lawfully ci-
for that effect, but not compearing,—the Lord
ice General, and Lords commiſſioners of juſti-
y DECERN and ADJUDGE *Allan Stewart* com-
nly called *Allan Breck Stewart*, ſon to Donald
wart, *alias* Vic Ean Vic Alliſter, ſometime in
erchomrie in Rannoch, and ſince, or ſome-
after the eighteenth day of April one thouſand
n hundred and forty ſix, a cadet or ſoldier in
French king's ſervice, or reputed in this coun-
to have been ſuch, to be an outlaw and fugi-
from his Majeſty's laws; and ordain him to
ut to the horn, and all his moveable goods and
to be eſcheat and inbrought to his Majeſty's
for his not compearing this day and place,
nderly the law for the crime of murder com-
ted by him upon the deceas'd Colin Campbell
Glenure, as is more fully mentioned in the
minal letters raiſed againſt him thereanent, at
inſtance of William Grant of Preſtongrange,
; his Majeſty's advocate, for his Majeſty's in-
eſt, and alſo at the inſtance of Janet Mackay,
ghter to the honourable Hugh Mackay of
houſe, Eſq; and relict of the ſaid deceas'd Co-
Campbell of Glenure, for herſelf, and on be-
f of Elizabeth and Lucy Campbells her infant
ldren, with concourſe of his Majeſty's advo-
e, for his Majeſty's intereſt; the ſaid Allan
wart, commonly called Allan Breck Stewart,
having

having been lawfully cited for that effect, times called, and not compearing.

ARGYLL. *I. P. D.*

Intrat. James Stewart indicted and accu at the inſtance of his Majeſty's advocate, his Majeſty's intereſt, and alſo at the inſtance Janet Mackay, daughter to the honourable Hu Mackay of Bighouſe Eſq;, and relict of the deceas'd Colin Campbell of Glenure, for herſ and on behalf of Elizabeth and Lucy Campb her infant children, with concourſe of his Ma ſty's advocate for his Majeſty's intereſt, as guil actor, or art and part of the crime of murd committed in the manner mentioned in the cri nal letters raiſed thereanent, againſt him, Allan Stewart, commonly called Allan Br Stewart, ſon to Donald Stewart, *alias* Vic Vic Alliſter, ſometime in Innerchomrie in R noch, and ſince, or ſome time after, the eig teenth day of April 1746, a cadet or ſoldier in French king's ſervice, or reputed, in this cou try, to have been ſuch.

Procurat

Procurators for the proſecutors.

right honourable William Grant of Preſton-
range Eſq; his Majeſty's advocate.
James Erſkine, advocate, ſheriff depute of
erthſhire.
John Campbell younger, of Levenſide, ad-
ocate.
Robert Campbell, of Aſnich, advocate.
on Frazer Eſq; advocate.

Procurators for the pannel.

George Brown, of Colſtoun, advocate ſheriff
epute of the ſhire of Forfar.
Thomas Millar, advocate, ſheriff depute of
e ſtewarty of Kirkcudbright.
Walter Stewart younger, of Stewart-hall, ad-
cate.
Robert Macintoſh advocate.

is Majeſty's advocate moved, that the crimi-
etters againſt the pannel, and the before na-
Allan Breck Stewart might be read. And
ame was accordingly done.

rd juſtice general. " James Stewart; you
ve heard the criminal letters againſt you
d. What have you to ſay to them?"

James

James Stewart. " My Lords; I am
" guilty of the crime of which I am acc
" and I refer to my lawyers to make my defe

Mr. WALTER STEWART for the pa

My Lord juſtice general.

I appear as council for this priſoner James Ste
who now ſtands at your lordſhip's bar, cha
as being acceſſary to one of the fouleſt and
barbarous murders that has occurred in any cou
the murder not only of an innocent gentleman,
as will be proved, the pannel's own int
friend, and that without the ſmalleſt provoc
ſave what greatly enhances his guilt, *viz.*
ure's being in the faithful diſcharge of his
of an office entruſted to him by the pu
He is charged with cauſing Allan Breck St
lie in wait for this unhappy gentleman, and
him off by a baſe and inhuman aſſaſſinatio
am ſenſible, my Lord, that the pannel, ac
of a murder attended with ſo many aggrav
circumſtances, muſt appear before your lord
his jury and the world, in a very unfavou
view. A certain indignation naturally ari
every human breaſt againſt one ſuſpected
horrid a crime; and this muſt not be a litt
creaſed by the malicious ſtories and inſinua
induſti

uſtriouſly ſpread, which the pannel, from his
ſe confinement, has had no opportunity of
tradicting. But now, as he has put himſelf
his trial, upon God and his country, by plead-
not guilty, until that country finds him guilty,
preſumption is for innocence. This he has
tle to demand.—All I ſhall aſk, however, is,
t as I know his judges, ſo I hope his jury, and
who now hear me, will lay aſide any preju-
e againſt him, and will form no opinion until
circumſtances of the libel, the defences which
n now to offer againſt it, and the proof of
h, be attentively conſidered. For myſelf,
Lord, I muſt ſay (and I believe I may ſay
ſame for all the gentlemen on the ſame ſide
h me), did I, after the ſtricteſt inquiry, ſu-
ct the pannel to be acceſſary to this murder, it
uld be the laſt action in my life to ſtand up in
defence: but, my Lord, we have gone thro'
libel with the greateſt attention, and have ta-
a view of the ſeveral facts, which, after a
cognition of above a thouſand witneſſes, are
forth to ſupport the charge againſt the pannel;
have heard from the pannel's own mouth his
ences againſt this charge, which he avers he
prove; we have heard, from the unprejudiced,
general character he bears in the world, and,
m the whole, cannot help concluding, that he
ot guilty. We look upon ourſelves as ſtand-
up for innocence, when defending this pan-
. It is therefore our duty to defend him with
t warmth which innocence claims as its due.
In the entry of this trial, my Lord, I cannot
p complaining of moſt intolerable hardſhips

 which

which this pannel has undergone ſince May la
when he was firſt incarcerated. My Lord adv
cate's humanity, his tenderneſs to pannels, I c
from my own little experience in trials, ſubſcri
to. The unjuſtifiable ſteps I am now to complain
I muſt therefore lay to the charge of the priv
proſecutors. I dare ſay my Lord advocate as lit
knew of them, as he will now, when he hea
approve of them. The pannel, ſince the mon
of May laſt, has been kept in the cloſeſt confi
ment. For the firſt ſix weeks, no mortal was
lowed acceſs to him: after that indeed for ſo
ſhort time, admittance was given to his wife a
one or two more; but any who could be thou
proper perſons to prepare defences for his tr
were carefully denied acceſs to him: and aga
for a conſiderable time before his trial, he w
cloſe confined, and all admittance refuſed. Wh
his council came to this place, and wanted to
him, we were told that none were to be admit
without a warrant from the Duke of Argyll; a
a petition was actually drawn, to be preſented
your grace, when a meſſage came allowing us
ceſs. His ſons and his ſervants too have ſuffe
the ſame cloſe impriſonment. And all this
only contrary to humanity, but directly in
face of the act of parliament 1701, which
charges cloſe impriſonment after eight days,
der the ſevereſt penalties. By the precaution
this private proſecutor too, the bar has been i
manner ſhut up againſt this pannel; all the
experienced council, tho' not brought to ma
tain the charge againſt him, have been retai
from giving him their aſſiſtance; otherways,

probability, I had not now been employed to
en his defence. The pannel's houſe and his re-
ſitories have been three ſeveral times ſearched
d papers carried off by near relations of the pro-
utors, attended by a military force, and without
y warrant. His wife and his ſons, who by the
ws of God and man, cannot be called as wit-
ſes againſt him, have been examined upon
h; ſome of them five different times, to catch
any diſcordance, had there been any, in their
clarations, and theſe very declarations are now
ppoſed to be brought in proof againſt the pannel,
hile the declarants themſelves are alive, and
ght, by the fundamental laws of this kingdom,
be examined in preſence of the pannel and jury.
heſe are hardſhips, my Lord, which, thanks be
God, meet with no encouragement in this now
ree country. The time was indeed, when the
ble law was unable to protect the innocent,
hen the rules of juſtice were broke to pieces by
e ruffian hands of power, then our unhappy
untry groned under the intolerable yoke of ar-
rary power; then was ſcarce the form of a
al; the beſt, the greateſt of our country, even
Argyll, fell a ſacrifice to the will of tyran-
. But now, my Lord, the days which our fa-
ers wiſhed to ſee, and did not ſee, we have the
ppineſs to enjoy. A fair trial, which the no-
eſt could not obtain, the meaneſt are now intit-
to, under the protection of laws, guarded by
government ever watchful for the good of its
bjects, under which the keenneſs of private pro-
utors will meet with no countenance or en-
uragement. The pannel enjoying the privileg-

es

es of every free born Briton, is now to ſtand t leman
before the judges and jury of his country; and re ente
his judges will ſhew the greateſt impartiality, r mann
expects the ſame from the gentlemen of the ju whole
They will judge of the proof brought bef ove ten
them, having in their eye the example of k prope
mighty God, by whoſe holy name they h for the
ſworn to do juſtly, before whoſe awful tribu eyed
there is no judgment formed of names or perſo to app
but every man is judged according to his wor dren.
They will conſider, that as they are to anſwe harges
God, ſo they have to anſwer to the world, w etime
will make a narrow and impartial ſcrutiny i d to the
their verdict. At the ſame time I cannot h which
ſaying, that, amid all the hardſhips this pan aveolan
has ſuffered, I hope it is one piece of good fortu n addi
that he is to be tried by gentlemen of the fa y comp
country with himſelf, who, from their kno took
ledge of the pannel and his character in the wo s from
ſhould be beſt judges what proof is neceſſary ed to
fix upon him ſo black a crime. agreem

In order that your lordſhips may more fully Glen
derſtand the defences now to be offered for t in L
pannel, I will beg leave to lay before the court itſund
account of the facts, which have given riſe to r tena
proſecution, as they really happened; and as does
have got them from the pannel's own mouth, n Glen
a time when it was little his intereſt to hide ard to
truth from us. The pannel, my Lord, was e addi
poſſeſſion of a farm in the eſtate of Ardſhiel c ways
ed Glenduror, and was tackſman of another cal he
Lettermore, which he had ſubſet for about 7 ch, t
Scots a-year, when Glenure was appointed fa gh, a
on the eſtate of Ardſhiel in February 1749. T t me

gentle

leman continued the friendſhip which he had
re entertained for the pannel in a very parti-
r manner. He gave him the management of
whole eſtate of Ardſhiel, power to put in and
ove tenants, and to raiſe the rents as he ſhould
k proper, and took yearly from the pannel his
for the rent of the eſtate at which it had been
eyed by the barons of exchequer, leaving
to apply the overplus to the uſe of Ardſhiel's
dren. This agreement will be inſtructed by
harges and letters under Glenure's own hand.
etime before Whitſunday 1751, Glenure ap-
d to the pannel to yield the farm of Glendu-
which he then poſſeſs'd, to Mr. Campbell of
veolan, a particular friend of his, who offer-
n additional rent. This the pannel immedi-
y complied with, without waiting a warning,
took the farm of Aucharn, where he now
s from Mr. Campbell of Airds, but ſtill con-
ed to uplift the rents of Ardſhiel, in terms of
agreement with Glenure. Sometime in April
Glenure execute a warning againſt the ſubte-
t in Lettermore to remove from that farm at
itſunday 1752; and likeways againſt ſeveral
r tenants of the lands of Ardſhiel. The pan-
does acknowledge, that he did expoſtulate
n Glenure upon this, telling him, he thought
ard to turn them out, ſince they offered to give
e additional rent than any others would, and
ways to take the oaths to the government.
he ſtill perſiſted in his reſolution; upon
ch, the pannel being occaſionally in Edin-
gh, at the deſire of the tenants, made out a
t memorial of the fact, and preſented it to
one

one of the barrons of exchequer, who disap
ved greatly of Glenure's procedure; but cou
nothing towards putting a ſtop to the remo
as a quorum of the barons was not to be
until the next exchequer-term. But he kep
memorial promiſing to repreſent the caſe to
whole barons; and added, that he had no d
but they would give an order to the factor to
tinue the tenants in their poſſeſſions. The
nel upon this adviſed with council, how the
nants might be kept in poſſeſſion untill the ex
quer-term; and, by their advice, applied f
ſuſpenſion of the removing to the court of ſeſſ
and a bill of ſuſpenſion being accordingly pre
ed, a fiſt was obtained, and the bill ordered t
anſwered; which fiſt was intimated to Gle
upon the pannel's returning into the country;
he, not knowing the forms, having carried
him the principal bill of ſuſpenſion, and Gle
immediately giving in anſwers, the ſame were
viſed without the bill, and it was refuſed.
ſcheme of a ſuſpenſion having failed, and Gle
perſiſting in his reſolution of ejecting the ten
upon the term-day at which they were warne
remove, the pannel, upon a ſecond applica
from the tenants, wrote to Alexander Stewart
tary-publick to come, upon the 15th of M
that they might proteſt, and take an inſtrum
againſt Glenure, if he proceeded to ejection;
when Alexander Stewart excuſed himſelf,
pannel ſent a letter, by expreſs, on the 14. M
to Charles Stewart, notary in Auchintowr,
come on the ſame errand, and, in a poſtſcr
bid him tell William Stewart to ſend down

ſterl

ng to pay four milk cows which he had
nt for his uſe at Ardſhiel, and which the
ts had refuſed to deliver until they got the
tho' William Stewart had wrote for them.
poſtſcript is laid hold of by the proſecutors
circumſtance to fix this murder upon the
el. But, this, my Lord, I am not ſurpriſed
other letters of his ſhare the ſame fate, tho',
ſible, leſs criminal than this one: by what
ration, or what mighty magick they can be
ſo, I own I cannot conjecture.
he pannel, in further proſecution of this plan
king a proteſt, on Thurſday the 14th, had
ged James Stewart younger of Faſnacloich,
John Stewart younger of Ballacheliſh, to be
nt on the 15th, and witneſs his proteſt. But,
he Thurſday evening, the pannel received
melancholy accounts of Glenure's being mur-
d in the wood of Lettermore. Theſe are the
which gave riſe to that inveterate malice,
h the libel ſays induced the pannel to con-
the death of Glenure. His words are:
nd, on account of the ſaid Colin Campbell's
cepting the ſaid office, and of the above
entioned and other his proceedings in the
ithful diſcharge of the duty thereof, the ſaid
mes conceived reſentment, *&c.*" How un-
this concluſion is, I do humbly ſubmit to
Lordſhips. After Glenure was made factor,
Lordſhip ſees, they continued in the greateſt
dſhip: you ſee the pannel managing the e-
of Ardſhiel under Glenure, removing from
poſſeſſion of Glenduror, at Glenure's deſire,
out putting him to the trouble of a warning,

and

and going and reſiding under Mr. Campbel
Airds. He had no poſſeſſion in Ardſhiel e
as Lettermore was ſubſet; his management of
eſtate was not taken from him, and he was
allowed to remit parts of the rents to Ardſhiel's
mily. He has no connexion by blood, or ot
ways, with the tenants warned to remove; t
is not ſo much as one of them of his name.
eſtate was annexed for ever to the crown, and
in a few months to fall into the hands of com
ſioners, appointed by his Majeſty, who w
probably reſtore the tenants, as they offered m
rent than thoſe put in by Glenure. Can any m
tal believe, that the pannel, becauſe Glenure
to execute a removing againſt theſe tenants, ſh
enter into ſo execrable a deſign, as to aſſaſſinate
gentleman, by the hands of Allan Breck, on
14th, when we ſee him purſuing quite ano
ſcheme, ſending for a notary and witneſſe
take a proteſt againſt him on the 15th. In all c
of murder, I do humbly apprehend, it is of ne
ſity, that there ſhould be malice, a forethou
which is the eſſence of, and conſtitutes the cri
and all paſſions, particularly one of ſo extrao
nary a nature as this malice, muſt have had ſ
cauſe. I do ſubmit to your Lordſhips, if ther
the ſmalleſt appearance of that malice, or
thing like a cauſe aſſigned for it. But, even
king the ſtory as it ſtands in the libel, it is a
that can gain credit with no mortal. What ea
ly purpoſe could the pannel ſerve by ſuch a de
rate piece of villany? would the murder of Gl
ure prevent the removal of the tenants? Wo
not the murder of Glenure deprive him of the
be

y which that gentleman had given him to up-
the rents? Would it not put it out of his
ver to keep his brother Ardſhiel's family? The
nel is allowed to be a judicious man, prudent
his actions beyond moſt men of his rank in the
ld. Can it be believed he would do a thing
irectly contrary to his intereſt? Suppoſe him
able of the crime, we muſt ſuppoſe him the
ateſt fool, as well as the greateſt monſter that e-
diſgraced humanity. But, is this his character?
, my Lord, as he is a ſenſible man, ſo all who
w him will ſay, he is a humane, peaceable,
d-natured man, looked upon as a father where
lives; ſtrangers were happy to get their chil-
n under his care, as in fact he is tutor and cu-
r at this very time to ſeveral orphans, who
e not the ſmalleſt relation to him.

Here, my Lord, I will for a little leave the pan-
, and give an account of Allan Breck Stewart,
o is charged as the committer of this mur-
, having entered into a wicked conſpiracy with
pannel for that purpoſe. Whether he was
actual murderer or not, the pannel knows
; neither is it my buſineſs to ſay. I ſhall on-
point out what connexions was betwixt the
nnel and Allan Breck, leaving it to your lord-
p, and the jury, to judge, if the circumſtances
that connexions, as I ſhall now open them, or
en as they are laid in the libel, are ſufficient to
upon the pannel his being a conſpirator in
s execrable plot. At the ſame time, there is no
eſtion but the proſecutors muſt fix the actual
urder upon Allan Breck, otherwiſe the charge
ainſt the pannel entirely flies off.

This Allan Breck Stewart, my Lord, was re rem
ſon of one Donald Stewart, a particular frie ntry,
or diſtant relation of the pannel's. He died w ere-eve
his children were infants, and, upon his de ers, h
bed, committed them to the care of his fri ugh h
naming him tutor and curator to them. The pa ces in
faithfully execute this truſt, took care of the c ake a
drens education, and managed their effects to duct a
beſt advantage. Allan turning extravagant, w March
he grew up to man's eſtate, and having ſp houſe
what was left him by his father, inliſted in m the
Majeſty's ſervice, without clearing accounts w tinued
the pannel, who uſed to ſupply him with m threw
ney, and pay little debts for him, even a aths b
he became a ſoldier, though he knew he had the be
ready given him more than his patrimony. T's houſ
the pannel thought he owed to the memory of Edinbu
deceas'd friend. Breck continued in his Maje h a da
ſervice until the battle of Preſton, where be s, and
taken priſoner by the rebels, he inliſted with th had p
continued with them during the rebellion, and tinued
terwards made his eſcape into France, and inli ſs, unt
in the French ſervice, where he ſtill contin ned to
Since he firſt went over, he has been in uſe, m ht. C
and then, of coming back to Scotland, and ſtay noon,
a few months with his relations; he commo a field
landed firſt at Edinburgh, and lodged in the ho oes. T
of one Hugh Stewart. There he ſeldom w hour i
out but in the night, and more than once m preſs ca
rowly eſcaped being apprehended as a deſer nnel, d
When he came up to Rannoch or Appin am buſine
his relations, he uſed to ſtroll about, without th Brec
ny ſettled reſidence; and where-ever he came, y yard
generally threw off his French cloaths, as t t going
w

, was re remarkable and improper for that hilly
ar frie ntry, and borrowed from any acquaintance,
lied w ere-ever he happened to be at the time. Among
is de ers, he uſed to viſit at the pannel's houſe,
is frie ugh he came ſeldomer there than to other
he pa ces in the neighbourhood, as the pannel uſed
the c ake a good deal of freedom in blaming his
cts to duct and extravagance. About the beginning
nt, w March laſt, he came over from France, was at
ng ſp houſes of Balachallan and Annat, and went
ed in m thence to Glenbucky's houſe, where he
unts v tinued until the end of March, and while there,
vith threw aſide his French cloaths, and wore
ven a aths belonging to Glenbucky, or his brother.
e had the beginning of April, he came to the pan-
y. 's houſe, immediately before the pannel went
ory of Edinburgh, and ſtaying a day or two, went off
Maje h a dark coloured ſhort coat with clear but-
re be s, and other parts of the country dreſs, which
th th had picked up about the pannel's houſe, and
, and tinued ſtrolling about the country in that
l inli eſs, until the latter end of April, when he re-
ontin ned to the pannel's houſe, and ſtaid a ſingle
uſe, ght. On the 11th May, about one o'clock af-
l ſtay noon, he returned, and found the pannel up-
mmo a field, where his ſervants were covering po-
he ho oes. They continued there about a quarter of
m w hour in the hearing of the ſervants, when an
ce m preſs came from Mr. Campbell of Airds to the
deſer nnel, deſiring him to come to him at Keil up-
am buſineſs; upon which the pannel walked
thout th Breck from the field to the houſe, at about
ame, y yards diſtance, and leaving him there, with-
as t t going in, went directly to Keil; continued
there

there until betwixt ten and eleven at night, wh etween returning home, he found there were fev nel was ſtrangers beſide Allan Breck. They ſupped al houſe a gether, and continued in one room until t had went to bed. Breck lay in the barn with nging t pannel's ſons, and one Archibald Cameron. gether pannel had no private conferences with h ck was they were not one moment by themſelves, the ever in company, but before the family and s it ſtan ſtrangers. Early in the morning of Tueſday e that twelfth, before Breck was out of bed, and w own cl out ſeeing or ſpeaking with him, the pannel this m to Appin's houſe, and Breck was gone befor his diſg returned, and the pannel has never ſeen ed? T ſince. What cloaths he carried off he does ected c know; but he has authoriſed me to ſay, lliam to what is laid in the indictment may be true, on his he went off in the ſhort coat which he uſed lickly i fore. That he went to Ballacheliſh, from th uld hav Glenco's houſe, and then to Callart, and, on W yet, neſday, came back to Ballacheliſh, where he aths, as all night. On the Thurſday, in the forenoon nds one aſſiſted Ballacheliſh's ſervants in carrying l conta dung, and, after dinner, he got a rod, and w the pri a-fiſhing, continued ſome time in ſight of B proce cheliſh and his ſervants, who were carrying l to G the dung; but going a little up the water, a on T ſing ground intercepted their view, and they 's ſerva no more of him. med hi

This, my Lord, is a true account of the od of nexion betwixt the pannel and Allan Breck nnel ap ceeding the murder, as it will come out u news; proof. I will draw this concluſion, that this nts wen rid conſpiracy muſt have been laid and conc ll not,

between them in a few ſeconds, while the nel was walking from his potatoe ground to houſe at fifty yards diſtance; for at no other had they any private conference. The nging the cloaths, your lordſhip ſees, was gether unknown to the pannel, and what ck was in uſe to do at the pannel's houſe, and r the whole country. But taking the ſto- s it ſtands in the libel, who can poſſibly be- e that the pannel would have given Breck own cloaths to diſguiſe himſelf for commit- this murder, or that Breck would have put his diſguiſe four days before the murder hap- ed? The libel ſays, Glenure was certainly ected on the Thurſday to return from Fort- lliam to Ardſhiel. Would Breck then have on his diſguiſe on the Monday, and go about lickly in it? No ſurely, my Lord; children uld have conducted a plot better than this; yet, upon this circumſtance of changing aths, as incredible as it is falſly repreſented, nds one half of the proſecutor's hopes (if the l contains them all) of fixing this crime up- the priſoner.

I proceed to lay before your lordſhip the ſe- l to Glenure's murder. Betwixt ſix and ſe- on Thurſday's evening, Mackenzie, Glen- 's ſervant, called at the pannel's houſe, and in- med him, that his maſter was ſhot dead in the od of Lettermore. The libel ſays, that the nnel appeared nowiſe ſurpriſed or concerned at news; and that neither he, or any of his ſer- nts went to look after the corpſe. Mackenzie ll not, dare not, ſay ſo. The pannel ſhewed that

that ſurprize, that deep concern, which every innocent man muſt feel at ſo unexpected and melancholy an accident. He directed Macke the neareſt road to Glenduror, to call Mr. Ca bell of Balaveolan, Glenure's friend, and, in mean time, ſent ſuch of his family as could ſpared, and ſeveral of his neighbours, to care of the corpſe. On Friday morning, the after the murder, the pannel received a me from Allan Breck, by Donald Stewart, nep to Ballacheliſh, who had ſeen him in the about nine o'clock the evening before, when B told him, that as Glenure was killed, there w be a ſtrict ſearch for his murderer; and he b a deſerter, it was proper for him to keep o the way; he was therefore reſolved to leave country immediately; that he would hide h ſelf for a day or two in the deſart of Koaliſn an; and as he had no money, he begged of Do Stewart to go to the pannel, and inform hi this, and intreat him to ſend a little mone him at Koaliſnacoan. Donald Stewart then to him, that he hoped he had no hand in G ure's murder himſelf. Upon which he took to witneſs he had none, but his being a deſe to the highland army, was the only cauſe of abſconding, as he was ſure he would be ha ed, without mercy, if he was ſeized. Upon ceiving this meſſage, the pannel ſent Alexa Stewart, packman, to Fort-William, to one W liam Stewart a merchant there, to get five gui from him, telling him, at the ſame time, th was for the uſe of Allan Breck Stewart, who going off the country, as he was a deſerter,

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ciences

the ſearch which would be made for the
ſerer of Glenure. Upon the packman's re-
he found the pannel in the cuſtody of a
of ſoldiers; and as he had got but three
eas from William Stewart at Fort-William,
annel gave him other two, and bid him go to
iſnacoan, where he would find Allan Breck,
give him the five guineas. Upon which
ackman went home with the pannel's wife,
he is ſince informed, gave him Breck's French
hs, which he had left at the pannel's houſe
Monday before, but which the pannel knew
ng of. As to the long epiſode in the in-
ent, narrating the converſations betwixt Al-
reck and the bouman, as the pannel knows
ng of them, they ſhall paſs unnoticed by
Only I beg leave to make this ſingle ob-
tion to the gentlemen of the jury, that when
part of the libel comes under their conſi-
ion, they will obſerve, that it can be pro-
by the oath of but one witneſs, and that
eſs ſwearing only to what he heard Allan
k ſay; conſequently the miſtaking one word
be of the moſt fatal conſequence, for this
n, hearſay-evidence is altogether rejected in
They will likewiſe conſider, that what Al-
Breck ſays, is ſaid by one who wanted to
himſelf to the bouman of the murder of
ure, which the bouman charged him with;
which reaſon he might be tempted to throw
inſinuations againſt others. Let the jury
theſe hints in their eye, and then let them
what weight to this part of the libel their
ciences can allow them. The pannel was

taken

taken into cuſtody on the ſixteenth; on the
teenth it was rumoured in Fort-William, w
he was incarcerated, that Allan Breck was
murderer of Glenure. No ſooner does the
nel hear this, but he writes a letter to Mr. M
farlane writer to the ſignet, expreſſing the g
eſt abhorrence and deteſtation at the murder;
him that Allan Breck was ſuſpected to be the
mitter of it, as he was that day ſeen near
place where Glenure was killed, and immed
ly diſappeared. He expreſſes his deſire of
ving him brought to juſtice, gives a parti
deſcription of his looks and dreſs; and fu
ſays, he was probably gone South, to take
firſt opportunity of going abroad; and tha
commonly lodged in the houſe of Hugh Ste
at the back of the Fountain-well, when he
to Edinburgh. This letter too is brought as a
of ditty againſt the pannel. What ſtrange and
accountable wreſtings of the moſt upright ac
muſt there be, to make this criminal? This
pil, this relation, this friend's ſon of his, w
he had ſupplied with a little money, to keep
out of the hands of a military law as a deſe
no ſooner does he hear him named as being
ty of this horrid murder, but he does all i
power to have him brought to juſtice; ſtran
is indeed to make this a crime! What ſh
the pannel have done? ſhould he have conc
the ſuſpected murderer? No, my Lord, he
a more honourable part, ſuch a part as this
will approve of, ſuch a part as every memb
it would have acted himſelf.

As I have taken up too much of your

p's time already, I ſhall but juſt mention ſuch fences as occur in point of law, leaving them be inſiſted on by the gentlemen who are to pport me.

And, in the firſt place, however willing the nnel may be to ſtand the iſſue of his trial, it is r buſineſs, as council for him, to lay hold of e- y handle againſt it. I therefore ſubmit to the urt, whether this pannel, who is only charged acceſſary, can be tried before the principal Al- Breck be firſt diſcuſſed. I do moſt humbly ntend, he cannot, *primo*, becauſe, if the con- y practice were allowed, probation might be againſt the principal, tho' abſent, contrary to fundamental law of this nation; and it muſt t be proven he, the principal, committed the me, *primo debet conſtare de corpore delicti* before acceſſary can be convicted. *2do*, If the ac- ſary muſt defend the abſent principal, it may of the moſt fatal conſequence to both, tho' in- cent. The principal's greateſt enemies may be as witneſſes, and ſuch defences as would have n ſufficient to exculpate him entirely, may be itted. *3tio*, Theſe principles are followed by opinions of all lawyers who write upon the minal law, and likeways by the practice of ghbouring nations, particularly that of Eng- d; where the principal muſt be attainted after rdict or confeſſion, before any judgment can be en againſt the acceſſary. But, *4to*, what I w plead, I humbly apprehend, to be the law Scotland; for ſo it is expreſsly ſaid, *Reg. Maj.* 26. *b.* 4. *Quon. attach. ch.* 83. and 29 *ſtat. Da-* II. And, agreeable to theſe, is the opinion of

our great criminal lawyer Sir George Mackenzie, laid down in the ſtrongeſt terms in his title *art. part.* paragraph 9th. *2do*, I muſt object for the pannel to the relevancy of this libel, that the facts and circumſtances mentioned in it, tho' they ſhould be fully proven, are not ſufficient to infer his being acceſſary to this murder. Every libel is a ſyllogiſm: the major propoſition contains the crime, and the laws againſt that crime; the minor contains the facts charged againſt the pannel; and the concluſion is, that, from theſe facts, he is guilty of the crime, and deſerves to ſuffer the pains of law. Now, if the facts charged do not amount to the crime, the concluſion muſt be falſe, and the libel irrelevant. This, I humbly apprehend, is the preſent caſe. From the above narration of the facts, and what obſervations I have already made upon them, I hope your lordſhips will be of opinion, that the circumſtances charged in the libel are ſo extremely vague and trivial, that they are not ſufficient to bring the pannel under ſo much as a ſuſpicion of being guilty of the horrid crime laid to his charge.

If your lordſhips ſhall think proper to repel theſe defences, and to remit the pannel on this indictment to the knowledge of an aſſize, we humbly hope you will allow us a proof of all facts and circumſtances that can tend to his exculpation; particularly of his friendſhip with Glenure; of Allan Breck's being a deſerter, and being in uſe to put off his French cloaths, and put on cloaths belonging to the family where he happened to be at the time; of the pannel's having no private conference with him preceeding the murder; of the meſſage

which

which the pannel got from him after the murder, bidding him ſend him a little money to Koaliſnacoan, where he was going; and, in general, of all other defences that may occur as neceſſary to the pannel in the courſe of his trial. I will conclude, my Lords, with a ſingle word to the gentlemen of the jury, that the more flagrant, the more atrocious any crime is, the more clearly and diſtinctly they will require it to be made out to them: that, as this crime is propoſed to be fixed upon the pannel by preſumptive evidence alone, they will be cautious in diſtinguiſhing betwixt ſuch preſumptions as are concluſive, and ſuch as are not ſo; between ſuch preſumptions as can ariſe from no other cauſe but the pannel's being in a conſpiracy to murder Glenure, and ſuch as are more naturally conſtructed to have ariſen from other cauſes. If they find ſuch preſumptions, as that they can, before Almighty God, bring in a verdict *guilty*, it is their duty to do ſo, and the law will have its vengeance. But let them have this always in their eye, that better twenty guilty eſcape, than that one innocent man ſhould ſuffer by their verdict.

Mr.

Mr. ROBERT MACINTOSH for the pannel.

My Lord juſtice general, and Lords Commiſſioners of juſticiary.

I Appear alſo, to contribute my ſmall mite towards the defence of this pannel, who has the misfortune to be accuſed of a crime, which every body muſt admit to be of the deepeſt dye; and, as laid in the indictment, attended with the moſt aggravating circumſtances; and I do it, my Lords, not out of an opinion of my being in any degree equal to the taſk, a ſhare of which I have undertaken; but rather that a poor man, ſtanding trial for his life, may not be abſolutely deſtitute of aſſiſtance, when uncommon endeavours have been uſed to deprive him of abler help.

My Lords, I dare ſay, every one who ſpeaks in this cauſe, on whatever ſide, will begin with expreſſing a deteſtation of the crime now charged againſt the pannel; if not in accuſing the pannel; yet, in this, we ſhall all agree, to condemn the miſerable perſon, whoſe conſcience accuſes himſelf of it; whether he now ſtands at the bar, or whether he flies from the avenging ſword of juſtice. I muſt acknowledge, that if the pannel has been guilty of, or acceſſary to this murder, beyond all controverſy it conſtitutes him one of the greateſt criminals that this or any other country can afford. Murder is a heinous crime, whether it is the fate of the eminent or the obſcure. But this murder ſeems to be a complication of all guilt; and as my duty calls me to plead in defence of

one labouring under ſuch an accuſation, I can-
t do it but wit h the utmoſt concern. The ve-
mention of ſuch barbarity, and iniquity, as
as juſt now rehearſed, could not fail to move
ery human breaſt; but the reading of an in-
ctment, ſuch as we have a little ago heard, is
ough to inſpire horror even in the innocent.
is ſtill harder upon me, when I conſider the
happy ſufferer in that dreadful ſcene, which is
w to be the ſubject of trial; one, againſt
hoſe life I ſhould be the laſt man to excuſe the
alleſt attempt; one whom I knew, whom I
garded, whom I had the honour to be in friend-
ip with: his death, had it been common,
ould have affected me; but his murder afflicts
e. I ſincerely regret it, for his own ſake, for
e ſake of his friends, for the ſake of the poor
conſolate lady, who now weeps over her own wi-
wity, and the orphan ſtate of her infant chil-
en; I regret it for the ſake of the whole land
at ſtands polluted by the cruel ſhedding of inno-
nt blood; and in a particular manner do I re-
et it, for the ſake of the Highlands of Scotland,
which I own, from private connexions, I
nnot help having a regard, and which I am a-
id have, by this unlucky accident, ſuffered a
ep political wound, that it may take time to
b off the effects of; as being able to furniſh ſo
minent an inſtance of barbariſm, in ſpite of the
ble attempt of the legiſlature, and of all in the
miniſtration, to poliſh and civilize them, to re-
ce them to the righteous plan of the govern-
ent of this country, and to a conſtitutional e-
uality with the reſt of the united kingdom.

My

My Lords, for theſe reaſons do I moſt heart
ly join, in deploring this fatal cataſtrophe. A
the ſame time, my Lords, the defence I am no
to plead, fix my attention upon a more agre
able proſpect; that of innocence, and not
guilt; and the importance of the iſſue juſtly cha
lenges my moſt ſanguine efforts. We have befo
us the life and fortune of a man, a countryma
I believe an innocent, tho' accuſed one: I mu
believe him innocent, not only as I am yet ignora
of any proof that I think ſhould convict hi
but more as I have not been able, in a ve
ſtrict inveſtigation, to diſcover from himſelf a
ſymptom of guilt; and as the perſuaſion of inn
cence may give courage to defend, ſo I perſua
myſelf I need make no apology, if I am ab
to ſpeak with that earneſtneſs and freedom th
becomes the conſequence of what is at ſtak
And, on the other hand, I hope to be excuſe
if I fail in that accuracy and diſtinctneſs whi
I could wiſh to obſerve, from a juſt regard
the dignity of this high court, and to the pr
ſence of a crouded, and, I dare ſay, an intere
ed audience, who are ready to ſwallow wi
greedineſs every word that ſhall be ſpoke on th
ſubject.

My Lords, before I go farther, I cannot om
obſerving, what I am extremely ſenſible of, a
that is, the diſadvantages under which this pann
enters upon a trial for himſelf, and all that
dear to him in this world, for what concerns
that is precious to him in another; diſadvantag
which we ſhare in, who appear as his cou
cil. But when I ſay ſo, I would not be unde
ſtoo

ood as meaning to inſinuate any reflexion upon
e conduct of the honourable gentleman who
roſecutes for his Majeſty: he does the duty of
is office, the duty which he owes to his king
nd country; and gave an early proof in this
natter of that candor for which he is remark-
ble on all occaſions, by turning a general indict-
ent into a ſpecial and circumſtantiate charge.
ut, to uſe his own words, when hindered from
oing what his humane inclination equally led him
o, his lordſhip is here but half a purſuer: there are
thers concerned in carrying on this proſecution;
nd I am afraid their juſt reſentment of a murder,
hich they had all the reaſon in the world to be zea-
ous in ſearching out the committers of, has made
hem unguarded to meaſures which I ſhould be ſor-
y to ſee retaliate; and puſhed them beyond the
ounds of what I would call humanity, perhaps
hink juſtice; and yet, while I cannot approve of
heir conduct, I am loth, if I could avoid it, to be
vere againſt it, not knowing, whatever I now
hink, how far rage might have got the a-
endant of reaſon with myſelf, if in their place.
ne thing is obvious, that tho' it is true, that
he juſtice of our law agrees with the common
w of reaſon, in preſuming every man innocent
ll he is proved guilty, yet we have reaſon to
ar we come here oppreſſed with prejudice to
reate and propagate which, againſt this unfor-
unate pannel, no pains, no expence has been
pared, with manifeſt intent to prejudge him in
is trial; and in this have ſome people been wiſe in
heir generation; well knowing, that as preſumed
nocence is a great advantage in a trial, ſo be-

lieved

lieved guilt is no ſmall ſtep to conviction; a
often anticipates the juſt foundations of it, whi
can ariſe only in proof. When I ſee and a
ſorry for this, my Lords, in one view, yet do
moſt rejoice at it in another, as it ſhews the wea
neſs of the cauſe that has needed ſuch artificial fe
to ſupport it, even in the beginning, and whi
being removed, as I hope they ſoon will be, t
ſuperſtructure built upon the falſe baſis will a
fail. There are other things too, which the la
of the land would intitle us to complain of, an
which a few years more experience might ma
it better become me to exclaim againſt: a cl
confinement of the pannel, contrary to the
cred charter of liberty, which this nation boa
of; and which illegal proceeding was only rem
ved of late by the interpoſition of this court; imp
ſonment of witneſſes to be adduced againſt hi
where none had acceſs to them but the priv
proſecutors, or their agents, removed at a diſtan
from the check of my Lord advocate's ſuper
tendance, whoſe office, though it intitles him
inveſtigate the proof of public offences, yet re
ders a privilege, dangerous to be indulged to ev
ry injured party, ſafe in his hands. The pann
has had but ſhort warning to prepare for h
trial, tho' he was at great diſtance from the c
pital, from which only he could have council a
aſſiſtance: and it is but very lately ſince his cou
cil had acceſs to ſee himſelf; not for ſome time
ter we were in this place. Theſe things I ou
mention, as my brother has already fully open
them; and I mention them, my Lords, as wh
may have ſome weight with the jury, who a

to try the pannel, (and whom I now conſider myſelf as addreſſing) to remove the prejudices that are ſo naturally, tho' inſenſibly, imbibed without doors, and which eſpecially ariſe in the mind from the unavoidable, tho' inconvenient ſituation, in which a ſuppoſed criminal muſt appear, even when as yet the law preſumes him not guilty, loaded with irons and ſurrounded with guards.

My Lords, I do not mention, as a diſadvantage to the pannel, the place of his trial. I think it can be none: there are reaſons why this place may be more proper for the trial than any other; whether the pannel be guilty or innocent; that he may be either acquit or condemned, and juſtice may take place where the crime was committed. And one advantage the pannel moſt ſurely profits of by the trial being here, *viz.* the preſence of the prince who preſides in it, and who, in a ſpecial manner, is the father of his own country, as he juſtly appears to be of this part of the kingdom. This of itſelf is more than ſufficient to balance a diſadvantage, were it poſſible to ſuppoſe any could riſe from the opportunity that affords it: at the ſame time, I would, with great deference, obſerve (and I hope I may do it without giving offence, which I am ſure I do not mean to do), that there may be ſomething in this, which calls upon the jury to be cautious; and I hope an attention to it will have the effect to make them rather lean to the favourable ſide, than be diſpoſed to make any ſtretch againſt the pannel. It is the privilege of the ſubjects of this country to be tried by one another: yet, when we have this advan-

tage, and it is an ineſtimable one, ſtill it is to be tri-
ed by men of like paſſions, *i. e.* like infirmities with
ourſelves; and all men are more or leſs ſuſceptible of
prejudice. I hope, however, I may ſafely truſt to the
honour of ſuch a jury as will be put upon the pan-
nel's trial, that they will, if any ſuch there are,
lay aſide all regard to country-alliances or con-
nexions, diveſt themſelves of all prejudices, and
ſit down to the trial with a candid reſolution to
yield only to the force of truth; deſiring rather to
ſee innocence thereby vindicated, than guilt, un-
wiſh'd for guilt condemned, and inclined to give
the caſt of favour on the favourable ſide, unleſs the
proof ſhall come out very clear and convincing.
Trials in this country are open and public, and
the eyes of the world are a check both upon
judges and jury; and as this murder has been,
and juſtly, the ſubject of an extended ſpeculation,
ſo will the trial for it: I hope, be the iſſue of it
what it will, it ſhall be ſo conducted, as to re-
flect nothing on any concerned in it; and I ſhall
only add, that, could I ſuſpect that the law of
my country, or the court, could put any on the
pannel's jury, who would overlook their obliga-
tions to impartiality, which I dare ſay is impoſſi-
ble in the preſent caſe, I would put ſuch in mind
that, if they have no regard to the pannel, they
ſhould regard themſelves; for, as the old philo-
ſopher ſaid, No body is happy before he dies:
what is the pannel's fate to day, may be our's to-
morrow, and what is proof againſt him, may be
againſt another long after this. Every trial
therefore, tho' it preſently affects only thoſe who
ar

are under it, is in a material ſenſe the cauſe of thoſe who do try; of the public, and of poſterity.

My Lords, having ſaid ſo much in general; (and I think I could ſay no leſs) it ſhould be my province now to ſtate what has occurred to me for the defence of the pannel againſt this indictment.

And here, my Lords, we have a moſt barbarous, indeed a ſhocking murder, charged againſt two perſons: but with this material diſtinction between the two, that the one is by the indictment charged as the actual murderer, by himſelf; no mortal along with him at the perpetration of it; and the other is only alledged acceſſary thereto, as having been in a previous conſpiracy with the murderer: and the pannel now to be tried, is this conſpirator.

My Lords, I do not diſtinctly ſee, from the indictment as laid againſt Breck, what proof there will be of his being the actual murderer. I ſhould at preſent imagine, from the way in which the ſtory is told, that there can be no proof, at leaſt no direct, no ſatisfying proof. But, be that as it will, one thing I am ſure of, from the nature of the thing; it is impoſſible there can be any direct proof of a conſpiracy, to which only the two perſons accuſed were privy: and therefore it is, we ſee my Lord advocate has very properly, and, I think, very candidly, as I ſaid before, ſpecified his charge of acceſſion againſt the pannel, into theſe circumſtances, from which his lordſhip infers the acceſſion or conſpiracy. And it is upon the relevancy, or import of theſe circumſtances, that I fall to ſpeak to your lordſhips.

For,

For, it is not to be imagined, that, by diſputing the relevancy of the indictment, we mean to call in queſtion that murder is a crime: and, for my own part, I as little conteſt, that, as the law now ſtands, the charge againſt the pannel in the general propoſition of the libel is relevant, that he is guilty, actor, art and part of the murder of Glenure. And I do farther admit, that, if the pannel has been acceſſary to, or the former or contriver of a conſpiracy for perpetrating this horrid murder, he is truly as much art and part thereof, as the actual murderer: nay, were that the caſe, I ſhould not heſitate to pronounce him, if poſſible, a greater criminal than the miſcreant by whoſe hands he accompliſhed the wicked aſſaſſination. But it is my buſineſs now to endeavour to ſhew, that the circumſtances condeſcended upon in the libel, and on which I muſt ſuppoſe the proof is to reſt, are not tantamount to the general charge: or, in other words, that the premiſſes of the indictment, ſuppoſing them true, do not infer the concluſion, much leſs will they ſupport it, when they appear in that light which I hope the proof will place them in, diveſted of the romantic dreſs of exaggeration, in which fancy has dreſſed them. And when I attempt this, I own, my Lords, it is not with deſign to influence your lordſhips interlocutor; for, as I have already admitted, the general propoſition of the libel to be a relevant charge, I ſuppoſe the interlocutor of the court will be confined to that. It was the cuſtom, not many years ago, for the court to pronounce ſpecial interlocutors upon ſuch indictments as the one now under

conſideration,

onſideration, finding what facts or circumſtances, proven, would infer the charge: but your ordſhips later and, I think, better practice has een to evade that, as what, if it had any effect influence the judgment of the jury, did in ſo ar deprive the pannel of his rightful privilege to e tried by the jury, and not by the court; or, as what indeed was more likely to happen, being a hing that had no effect at all, as the jury would udge over again for themſelves, what the court nd ineptly judged of for them. I ſay, therefore, y Lords, I do not ſpeak ſo much for your lordhips, as for the jury; willing, ſo far as I can, to uide their attention to where I apprehend it ought hiefly to be fixed, in the proof they are to hear; nd to help them, if I can, to judge on what art of it they ought to lay ſtreſs in forming an pinion of this cauſe.

There is only one thing which I muſt ſubmit o your lordſhips, and which I ſhall but mention, s my brother, who opened the defence, has aleady offered it, and your lordſhips may hear nore of it in the reply to my Lord advocate; and hat is, the prejudicial queſtion how far the pannel, harged with an acceſſion to the crime of anther, can be tried for it, till the principal is firſt iſcuſſed. Your lordſhips well know, that an acceſary does of its own nature follow a principal: ill, then, there be a principal, there can be no cceſſary, and the principal being removed, the cceſſary is alſo taken away; and therefore, till he one is convicted, there is no room for trying he other, in like manner as the principal being cquit, the accomplices cannot be condemned.

That

That the law ſtood formerly ſo, is moſt certain; as appears from many authorities, which I forbear citing. How far this is altered by the act of parliament, introducing the law of art and part, will be ſubject to the judgment of the court, where I leave it. But I muſt at leaſt inform the jury; that, however the law ſtands in this matter, it is undoubtedly certain, that they, or any jury, cannot convict an acceſſary, but upon this ſuppoſition, that, if the principal were under trial before them, they would convict him, *Quando proceditur contra aliquem tanquam quod præſtiterit auxilium, debet conſtare principalem deliquiſſe.* And the gentlemen of the jury will take heed to this, that if they ſhall find cauſe to convict the pannel upon the evidence that ſhall be brought before them, they do, in the moſt expreſs manner, declare their opinion, that Breck, and no other, was the murderer of Glenure. Nor muſt they hold ſufficient for this purpoſe, the preſumptive conviction, which ariſes from his flying juſtice, and being fugitate and outlawed by the ſentence we heard this day pronounced. The law ſays expreſsly, That no fugitation of a principal is to be held for a conviction againſt an acceſſary; and indeed, why ſhould it? for the confeſſion of the principal, were he now here, would not be evidence againſt the pannel, and much leſs muſt his abſence or run-away have that effect. So that the jury muſt here conſider, that, before they can convict the pannel, they muſt have ſuch evidence againſt Breck, as would condemn him were he on trial. And ſo, leaving Mr. Breck till we ſee what proof comes out againſt him, the

queſtion

queſtion is at preſent, upon what is the charge of the pannel's guilt founded? or, are the circumſtances alledged in the indictment ſufficient to ſupport the accuſation of art and part againſt the pannel?

And here, my Lords, I do not propoſe to entertain your lordſhips with a nice diſquiſition, on the law of art and part; ſuffer me only, in three words, to mention that, ſo far as I can comprehend, by the law of Scotland, art and part is inferred from circumſtances antecedent to, concomitant with, or ſubſequent upon the actual commiſſion of a crime. Now, my Lords, when I look to the indictment before me, I am able only to perceive two facts condeſcended upon, from which the pannel's acceſſion to this murder is to be inferred; the cloaths alledged to be furniſhed by the pannel, to Breck before the murder, as a diſguiſe to commit it in, and the money ſent him after the action, to enable him to go off the country. Theſe, I ſay, my Lords, are, ſo far as appears to me, the only two conſiderable circumſtances to infer acceſſion: for your lordſhips will obſerve, there is an abſolute blank as to the principal period in which guilt ought to appear, the actual commiſſion of the crime; at leaſt, ſo far as I can gather, there is not one concomitant circumſtance alledged againſt the pannel, which connects with the actual murder. And, as for the circumſtance of the pannel's ſending the money to a certain place, where, as would appear from the indictment, he had no acceſs to know that Breck was; as to that, I ſay, and ſome other ones of leſſer moment, which I ſhall likewiſe take notice of,

of, I take them to be deſigned as a key to explain into a connexion with the murder, the two facts already mentioned, by ſhewing a previous knowledge of the murder, which the facts themſelves do not import, and yet without which they have no weight. Upon theſe two cardinal facts, then, attempted to be ſupported by the other leſſer circumſtances, in my apprehenſion, lies the burden of the proſecutors charge. And I will beg leave to ſay a few words to each of them.

But, before particulars, give me leave, my Lords, as ſhortly as I can, to make an obſervation or two upon the nature of proof in general.

And, my Lords, I think it is a common, but well founded maxim, derived from better authority than mine, that, in proportion to the greatneſs of a crime, ought the ſtrength of the proof of it to be. The higher a crime is, and the deeper it draws in its conſequences, ſo much the clearer and ſtronger ought the evidence of it to be; and indeed juſtly; for, I hope, bad as men are corrupted as human nature is, it is not come that length, that vice is natural to mankind. I rather perſuade myſelf, that it coſts ſome pains, by rooted habits, to extinguiſh the ſparks of reaſon which are the ſeeds of virtue. Here then, my Lords, is a crime of ſo enormous a ſize, that it is almoſt too big to believe; murder, deliberate murder, aſſaſſination in face of the ſun, in defiance of all law and government. What proof ſhould then be expected of ſo monſtrous an offence? that one ſhould ſit down deliberately and coolly to form a conſpiracy of bereaving another

of his life, in ſo horrid and barbarous a manner; what degree of flagitioſity muſt not be proved to ſuppoſe one capable of it? ſure, tho' many circumſtances be brought to eſtabliſh a preſumption of guilt, yet to believe it is no eaſy matter. Muſt it then depend upon gueſs work? is it to be tried upon queſtionable evidence? or is a jury to be perſuaded into it by art? no, there muſt be the moſt palpable and inconteſtable proof; and, unleſs the evidence is full and plain, no credit, I will venture to ſay, can be given to ſo black, ſo deteſtable, and ſo unnatural a charge. It would almoſt require to ſee the blood of the innocent reeking on the hands of the guilty. But what have we here? preſumptions built upon preſumptions; ſuſpicions, and theſe ſuſpicions ſupported by others; ſuſpicions without proof, nay diſproved. We have firſt to get over the belly of a good fair character, which this pannel had the happineſs to poſſeſs, a blameleſs moral life in private. And, ſhould he all at once have deviated ſo far from the paths of virtue? could he ſo ſuddenly ſhake off a regard to all that is ſacred? I ſhould have expected to have heard urged againſt this pannel, the abandoned diſſoluteneſs of his manners, the barbarity of his nature, that his life was one continued courſe of wickedneſs; in ſhort, every part of his character devoted to murder; that he was one inur'd to the practice of it, and diſtinguiſhed by the moſt conſummated guilt: yet not one of theſe circumſtances ſo much as alledged in all this aggravated charge; and for a good reaſon, *viz.* that the contrary is well known to be true by the proſecutors themſelves. Next,

my Lords, when we ſeek for a cauſe of ſuch a malice as could produce this crime, we find a cauſe that never ſubſiſted; a cauſe noways adequate to the effect: reſentment; for what? for accepting an office which ſomebody muſt have got; and none could have made a more favourable uſe of, for the friends of the pannel, than this gentleman did: (for which reaſon they will be proved to have been in good friendſhip long after that) reſentment for turning out ſome tenants from an eſtate forfeit to the crown; irrecoverably loſt to the family with which the pannel was connected. This is the foundation; and what is the ſuperſtructure? of a piece with it truly. Why the murderer had on a coat of the pannel's, when he committed the brutal action, and got money from him after it. Here is the proof; a circumſtantiate proof it is called.

My Lords, I have no objection to circumſtantiate proof; what the law calls argumentative evidence. I do admitt, that it is a legal and proper ſort of evidence, as much as direct proof by witneſſes. Every thing is legal evidence, that is ſuch real and certain proof as ought, in natural juſtice and equity, to be received: for what is evidence of a fact, but ſuch teſtimony as the nature of the caſe requires to induce a moral certainty of the thing teſtified: and an argument is nothing elſe than what gives faith or credit to a thing in itſelf doubtful, which perfectly agrees with the law-definition of proof or proving, which is *fidem facere*. I will admit further, that circumſtantiate evidence, when clear, is perhaps the moſt ſatisfying and convincing proof of any. Circumſtances

are

are inflexible proofs: they will not bend to the inclination of parties: witneſſes may be miſtaken; may be corrupted: things can be neither; and therefore, ſo far as they go, deſerve unlimited, unreſerved faith.

But then, my Lords, the circumſtances muſt be clear, certain, and well connected: no blank in the chain, elſe all goes for nothing: the arguments muſt be perſpicuous, nervous, and concluſive. The ſame law that has ſad, *crimina poſſe probari, vel teſtibus, vel documentis aut indiciis,* as it requires *idonei teſtes,* ſo does it *documenta apertiſſima, indicia indubitata, luce meridiana clariora.* We muſt therefore, my Lords, carefully diſtinguiſh between circumſtantiate or argumentative evidence, and bare preſumption or even probability; much more ſuſpicion and conjecture, with all which it has a near affinity, and is therefore apt to be confounded with them; for they all depend on facts or circumſtances. But, ſays our great criminal lawyer Sir George Mackenzie, crimes cannot be prov'd by preſumptions; for preſumptions are only founded on veriſimilitude, and what may be, may not be; whereas all probations eſpecially in criminals, ſhould be infallible and certain; *concluſio ſemper debet ſequi debiliorem partem:* if otherways, ſays he, judges (or juries now) would be arbitrary. Probabilities, again, ſays a good reaſoner, twenty of them allowed to be ſuch, are not equal to one matter of fact well atteſted: they may ſtrengthen the fact, but cannot ſupply it: they cannot be evidence themſelves, becauſe one probability may be ſet againſt another, and ſo mutually deſtroy the force of each other: and as for

ſuſpicions

ſuſpicions and conjectures who will pretend a right to indulge them where life and fortune are concerned?

Guarding then, my Lords, againſt theſe things which are ready to miſlead, let us, and let the jury, my Lords, examine cautiouſly and candidly the circumſtances I mentioned, on which the burden of the indictment lies: let us ſee if they approach a proof; if they do not more participate of the nature hardly of preſumption, not at all probability, rather ſuſpicion and conjecture; or if they amount to a ſolid and ſubſtantial circumſtantiate or argumentative evidence.

My Lords, I mentioned firſt the cloaths: and permit me, my Lords, once more in general to obſerve upon this circumſtance, as well as the others that follow, That I do, with great ſubmiſſion, apprehend they derive their whole weight from a belief of the pannel's guilt, which it is indeed very natural to entertain from ſuch circumſtances as he now appears in. The indictment ſets out with laying down this crime in the moſt ugly colours, as indeed it juſtly does deſerve; and then ſubſumes, that the pannel is guilty of it; and I venture to ſay, that, take away the influence which too eaſy a credit to this firſt poſition gives to what comes after, all the circumſtances brought to ſupport the charge will in a great meaſure loſe their force; ſo that the aſſertion of the charge is the very thing which ſupports the circumſtances adduced to prove it, than which nothing can be a more falſe circle of probation. Prejudice, my Lords, is like a jaundiced eye, or a magnifying glaſs. To the firſt every thing it looks

ks at, appears yellow: and the laſt to appear-
ce increaſes the bulk of every object to which
is applied. Juſt ſo prejudice diſcolours every
cumſtance, turns the moſt trivial into ſome-
ng of importance, and makes what is in itſelf
different, a proof of guilt. Can the truth of
s appear more verified in any, than it is in the
eſent caſe?

My Lords, I will not repeat the true fact, as
ur lordſhips have already heard it opened, with
ſpect to the cloaths: had it been that Breck had
lly received them from the pannel, ſure that
itſelf would not have proved the pannel's ac-
ſion to a murder committed by Breck at the
ſtance of ſo many days. But has it any weight
all, this circumſtance, as it has been told your
dſhips, and as it will be proved to have in
t happened? A man comes to my houſe, and
hout my knowledge, puts on, and goes away
h my cloaths; and when wearing theſe, a
rder falls in his hand: muſt I be acceſſary to this
rder? or muſt I be preſumed acceſſary to it?
ck, your lordſhips hear, was in uſe of changing
dreſs: he had been ſix weeks at one time in
noch with theſe very cloaths; and becauſe he
them upon him again at the unlucky period,
ſt the pannel for that be guilty with him? My
rds, we have heard of villains borrowing,
aling cloaths, aſſuming characters, feigning
ces, and ſuch like things, when about to com-
crimes, of purpoſe to deceive, and to throw
ſuſpicion of guilt off from themſelves upon
innocent. But ſurely theſe are dangerous cir-
nſtances, and would need to be ſupported by

better

better proof, before the life of any man was t
ken away upon them; or indeed what man
ſafe? It will not avail that we keep ourſelv
ſafe, ſo long as it is in the power of others th
to bring us into danger. Every man muſt ſo
at the mercy of others, and thoſe of the vileſt
mankind. The libel indeed ſays, the pannel *fu*
niſhed Breck with his cloaths; but how is that
be proved? Did the pannel give him them? N
my Lords, we ſhall prove he took them, a
went with them from the pannel's houſe, wh
he was not there, when he knew nothing of
But tho' he had known, as he did on former o
caſions, or tho' he had with his own hands
ven them to Breck, would it have been proof
gainſt the pannel? I cannot imagine it. I mig
admit, that had Breck never before changed
dreſs at the pannel's houſe, had this been the f
time, it might have been a circumſtance, a
but a weak one too, from which to preſume g
againſt the pannel: but when he had been
uſe of doing it, does there from thence ariſe
much as a diſtant ſuſpicion againſt the pan
Whatever effect it may have againſt Breck
preſume that wicked deſign, which I ſhall at p
ſent take for granted he ſoon thereafter execu
(to preſume it, I ſay, againſt him) that he chang
at ſo critical a conjuncture, his dreſs; yet ſure it
have no influence againſt the pannel, who, till
better proved, cannot be ſuppoſed privy to ſo ho
an undertaking in Breck. And this, my Lords, I
me in mind to make a diſtinction, which I ſho
have made ſooner, that is, betwixt Breck and
pannel. And I muſt call upon the jury care
ly to ſeparate the parts of this indictment, wh
r

fer to the one and to the other; for, when they
e confounded together, one in reading or hearing
is extremely apt equally to apply the effect of
the circumſtances to both. The indictment
s ſo chequered them thro' other, that it coſts
me pains to diſtinguiſh them, and lay to the
or of Breck, and of the pannel, what ſeparately
plies to each; and ſeems to ſupport the diffe-
nt charges againſt them. To ſhew the neceſſity
this, I will but mention one paragraph of the
el, where this confuſion manifeſtly prevails.
is at the foot of the third and top of the fourth
ge of the indictment. It is there firſt ſaid, that
eck *having come to the pannel's houſe on the Mon-*
evening, James Stewart the pannel was inform-
by him, (Breck) or by his ſon Charles Stewart,
by Faſnacloich's daughter, of Glenure's mo-
ns and reſolutions. And then it immediately
lows, "And there, after *receiving ſuch* advice,
in the evening of the ſame day, the ſaid Allan
Breck Stewart laid aſide his own cloaths, *&c.*"
So your Lordſhips ſee, that firſt Breck is ſaid
inform the pannel, and then Breck's *receiving*
advice or information from the pannel, (juſt in-
ting the thing) is laid down as the ſpring of
eck's actions, with a deſign, as is plain, to ex-
t guilt againſt the pannel, from his giving in-
mation to Breck, which produced his action,
en it was truly Breck himſelf that informed
pannel, as the indictment firſt aſſerts. This,
Lords, may be an inaccuracy in wording the
ictment; but it is not for that, I obſerve it: I
ntion it that the jury may ſee how carefully
y muſt conſider and weigh every branch of
this

this complex charge, as being heedleſs to o
branch or circumſtance may have bad effect. A
ſurely it is evident in this particular, that t
weight of the circumſtance as laid againſt t
pannel, wholly flies off by a juſt attention to t
erroneous connexion of the fact as narrated.

There is another circumſtance of the indi
ment, which, tho' it does not fall ſo direc
within my preſent view, I cannot omit taki
notice of it, as it comes a-croſs my thought;
is as to the pannel's behaviour when the murd
of Glenure was firſt notified to him by Glenur
ſervant. Page 7th of the indictment it is ſ
the pannel appeared noways ſurpriſed or concer
ed. Alas, my Lords, what ſuch proof of g
is this? We have ſeen doubtful actions by
help of innuendoes conſtrued criminally; but
give that in evidence which was neither ſaid
done, to conſtrue ſilence into guilt, is entir
new; and the author of this invention will
ſerve the glory of the diſcovery. This is ind
to conjure one into a crime. My Lords, I co
venture to invert the propoſition, if the gen
men pleaſe, and maintain, that a contrary be
viour, to any remarkable degree, would h
been more ſuſpicious, *tremor eſt ſignum cædis*,
in the words of the proverb of our own co
try, *The greateſt thief cries firſt, fy.* But,
Lords, the fact is different from what is in
libel. It will be proved to your lordſhips
the jury, that the pannel, upon receiving
piece of, I muſt call it melancholy news, expr
ed to the meſſenger a decent concern and regr
tho' little did he think at that time, that his
havi

haviour then would now be brought into judgment againſt him.

Of the ſame kind with this, my Lords, is another circumſtance, which I remember in the indictment, (for I cannot go thro' them all); and that is a letter of the pannel's to one Charles Stewart, relating to the price of milk-cows.—I confeſs, my Lords, it is to me myſterious yet, what import this letter is of as proof againſt the pannel. If it is, that the ſubject of it is ſuſpected to be fictitious, that we ſhall be able to prove real. But what connexion has it with the charge? I own I cannot find it out. It would appear to me that this letter muſt ſuffer torture, and not a little of it, before any thing can be ſqueezed out of it againſt the pannel. It puts me in mind of a ſaying, a great but very wicked politician, cardinal Mazarine, who is ſaid to have boaſted, that, if he had but two lines of a man's writing, with a few circumſtances atteſted by witneſſes, he would cut off any man's head when he pleaſed. Thank God, we breathe in a climate different from the one that pontiff ruled in: and I hope we do not delight in blood ſo much as to adopt his cruel ſcheme.

Theſe things, my Lords, I have thrown out by the way; but as to what I was upon, the circumſtance of the cloaths, I ſhall only add, that as it is in truth, it appears of no weight at all; and had it been as in the indictment, I ſhould have thought it a circumſtance greatly too thin and ſlender to build any thing upon.

There only then remains the other circumſtance of the money, which is poſterior to the murder. For, as I have already had occaſion to obſerve, I do not diſcover a concomitant circumſtance alledged, unleſs the arms be pointed at for this purpoſe; as I obſerve, there are two guns mentioned in the liſt of evidence, as found concealed near the pannel's houſe, and which poſſibly the proſecutors will attempt to prove to have been thoſe which the indictment ſays Breck had brought, or cauſed be brought to the place of the murder. Were any thing of this to be proved, I ſhall fairly admit it would be a ſtrong circumſtance, as it is one of theſe very things which the law points out; *Opem ferunt qui, cum crimini patrato non interfuerint, ferramenta tamen, tela, venena commodaverit, ſciens cujus rei cauſa commodaret.* But I cannot ſee where the proof of any thing like this can ariſe. It does not appear, that any guns were found at the place of murder. I think 'tis preſumable the murderer would carry his arms with him, after uſing them to his wicked purpoſe. And as for theſe found concealed near the pannel's houſe, we are inſtructed to ſay, they were in the pannel's houſe at the time of the murder, and were hid after it for fear of an apprehended ſearch for arms, by the military that was expected to come into the country.

This therefore I leave upon the proof, and ſhall now, in a word or two, take notice of the money ſent by the pannel to Breck after the murder. And here, my Lords, I muſt be allowed to obſerve, in the firſt place, what Sir *George Mackenzie*'s doctrine upon this point is. His words

words are, §. 7. (Tit. art and part) " aſſiſtance " given after the crime is committed, ſcarce de- " ſerves the name of aſſiſtance". And cites an authority for this opinion. I will admit my Lords, that, if this pannel did, knowing Breck to be the murderer of Glenure, adminiſter help to his eſcape, by furniſhing him with money, he did a very wrong thing; perhaps was guilty of an offence, which the law would puniſh.----But it is an offence quite different from that of acceſſion to the murder. It is a ſpecies of crime by itſelf; and, as my Lord advocate has not laid his proſecution for that, we have nothing to do with it. At the ſame time, my Lords, however wrong ſuch a conduct might have been, yet it could admit of an excuſe. Your lordſhips have heard this Breck was the pannel's relation. He had been his pupil, brought up in his family till he went into the King's ſervice as a ſoldier; and we all know, my Lords, the ſtrength of compaſſion on ſuch occaſions, eſpecially to our friends, it would perhaps be hard to puniſh for it. The worthleſſneſs of our relations does not at once diſſolve the ties of nature; none of us can be ſure, but we may have a wicked ſon or a brother; and, in a caſe of this ſort, it would be natural to wiſh to help him out of the way; perhaps it would be wrong, but ſuch is the known force of natural ties, and it, at leaſt, leſſens the crime. However here, my Lords, the caſe does not apply; for we abſolutely deny, that the pannel knew any thing of Breck's guilt; and ſuch knowledge can never be preſumed; he knew the ſituation he was in as a deſerter, and the

the hazard of it, when the military were coming into the country to make a ſearch; and to be ſure, had he been catch'd by the military, they would have ſaved your lordſhips the trouble of trying him ſuppoſing him to be guilty: a court martial would have made ſhort work with him, unleſs it had been (as likely it might) thought more for the end of public juſtice, to make him ſuffer for ſo flagrant an offence as this, than to hang him as a deſerter. It was for this reaſon, my Lords, and not from any knowledge of his guilt, that the pannel, upon Breck's meſſage to that purpoſe, as your Lordſhips have heard, ſent him the money to enable him to get off the country, and go where his buſineſs called him; his buſineſs I ſay, my Lords, but at the ſame time I call it his illegal, his unnatural buſineſs, as an enemy to his country, and a traitor to his King. And as to the circumſtance which I formerly noticed, as tending to point out the pannel's previous knowledge of Breck's motions, by his knowing where to ſend the money, tho' he had no acceſs to ſee Breck after the murder; as to this I ſay, my Lords, your lordſhips ſee no ſtreſs can be laid upon it, when you have heard that it was by a meſſage from Breck that the pannel learned his motions: ſo that ſtill ſomething is deſiderate here whereon to fix that circumſtance, upon which alone depends the pannel's acceſſion, to wit, his foreknowledge of the murder.

My Lords, I have finiſhed what occurred to me on the circumſtances of the indictment; and I am unwilling to weary your lordſhips.

I forbear entering upon the bouman's conver-
tion with Breck; that is but one man's ſtory of
hat another ſaid. It is but hearing a hearſay, or
ther leſs; and I know no law, no rule, it ra-
er ſeems contrary to all rule of evidence, that
e ſhould ſuffer for what another ſaid of him;
d that the very guilty perſon, as is here ſuppo-
d. If he did ſay ſo, it might be to throw the
ſpicion off himſelf with the better grace: but,
it as it will, it can be no evidence againſt the
annel.

There is but one other thing in the indictment,
hich we have to finiſh this doubtful evidence, if
can be called ſo much, and that is, the threat-
ings; but, as they are libelled in general, I can-
ot argue upon them; nor has the pannel any op-
ortunity to diſprove them: they muſt therefore
e left, till the evidence is concluded.

My Lords, I have ſaid what I could from ſuch
elps as were in my way, upon the nature and
mport of this ſort of evidence which is now be-
re us. I ſhall only ſay further on it, that this
rt of evidence, when imprudently handled,
ay be reſembled to the monſtruous machine
r making havock of enemies, which, when
nvented by a ſubject, was wiſely ſmothered in the
irth by the governor, leſt, however convenient it
ight be when uſed for him, he might come one
ay to regret the invention, when he found it ap-
lied againſt himſelf. And as to this particular caſe,
take it, that every individual circumſtance, as laid
n the indictment, ſo far as we know of it, will
e unſupported with evidence; that all put together
o not amount to the charge. I think there are

no

no grounds for any private opinion of the pannel's guilt, but what ariſe from prejudice only. I think prejudice, or even opinion, has nothing to do with judicial proceedings. It is the judgment that muſt acquit or condemn, and that muſt, can only be founded on evidence, on proof, not on ſuſpicion or preſumption.

I ſhall now take the liberty to read to your lordſhips, and the jury, the words of a great criminal writer on the common law, when treating on the ſubject of argumentative evidence. *Math. de Crim. ad Tit.* 15. *Cap.* 6. He is ſpeaking of arguments, and ſays, *Argumentum eſt neceſſarium, cujus conſequentia eſt neceſſaria, veluti coïvit eam quæ peperit; contingens cujus conſequentia probabilis, veluti eædem fuiſſe qui cruentatus* Then he adds, *Contingentia argumenta, quamvis ſingula fidem non faciant, plura tamen conjuncta crimen manifeſtare poſſunt. Hæc appellantur præſumptiones; præſumptio enim nihil aliud eſt, quam argumentum veriſimile communi ſenſu perceptum, eo quod plerumque ſit aut fieri intelligitur:* and he gives the following example of an argumentative evidence which may condemn, which I beg the jury will attend to, *occiſus eſt kallendis Mævius Titius peremti inimicus fuit eidem ſæpius non ſolum interminatus, ſed & inſidiatus eſt: cum deprehenderetur iiſdem kallendis in loco cædis cruentatus cum gladio cruento, ad menſuram vulneris facto, toto vultu exſpalluit, interrogatus, nil reſpondit, trepide fugit. Hic ſingula,* (ſays our author) *quidem argumenta infirmiora ſunt univerſa, tamen cædis auctorem Titium evidenter deſignant.* And I moſt heartily agree with the doctrine, and ſhall leave it to the jury

ry to judge, how far the proof brought againſt
e pannel comes up to this ſtandard.

I ſhall conclude, with laying before the jury,
e words of a great judge and lawyer of our
wn country, on an occaſion ſomewhat ſimilar
this. It is part of my Lord Coupar's ſpeech
pon the Biſhop of Rocheſter's trial, where the
idence depended on circumſtances as it does
ere. His lordſhip ſays, "The wiſdom and goodneſs of our law, appears in nothing more remarkably, than in the perſpicuity, certainty, and clearneſs of the evidence it requires, to fix a crime upon any man, whereby his life, his liberty, or his property, can be concerned: herein we glory and pride ourſelves, and are juſtly the envy of all our neighbour nations. Our law, in ſuch caſes, requires evidence ſo clear, and convincing, that every byſtander, the inſtant he hears it, muſt be fully ſatisfied of the truth (and certainty) of it. It admits of no ſurmiſes, innuendoes, forced conſequences, or harſh conſtructions, nor any thing elſe to be offered as evidence, but what is real and ſubſtantial, according to the rules of natural juſtice and equity."

Theſe are my Lord Coupar's words as we have em given us, (*it is very true, the judgment of e houſe of Lords went againſt his lordſhip's opinion that queſtion; but I muſt preſume that the judgent of that auguſt aſſembly, tho' againſt his opinion roceeded upon the principles eſtabliſhed by himſelf; d tho' it had been otherwiſe, the argument would ll be good, as reaſoning is not always bad, when it ils in ſucceſs*). I think I may with great propriety

priety adopt what that ſame noble Lord farth
ſaid on that occaſion, as follows; "In the ca
"before you, the whole charge is built upo
"circumſtances, and theſe are ſaid to be ſuppor
"ed by other circumſtances; but all of the
"are ſo remote, ſo general, and I may ſay
"inoffenſive, that they might ſuit any Lo
"here." I think the circumſtances charged
gainſt the pannel might ſuit any one here.

My Lords, I beg pardon for ſaying ſo much
I hope your lordſhips will excuſe it for the re
ſons I gave in the entry. I ſhall only furth
add, that the pannel is now on trial for his lif
he aſſerts his own innocence; he pleads not gu
ty to the charge. I hope it is the anſwer of ev
ry one preſent, God give him a good deliveranc
And if he falls, let it be as a ſacrifice to juſtice,
expiate guilt, and purge the land of blood, not
a victim to the blind fury of his enemies, or th
rage of the deceas'd's friends, to appeaſe popul
prejudices, or ill founded clamour and outcry.

Mr. FRASER, againſt the pannel.

My Lord juſtice general,

I Appear as council for Mrs. Campbell of Glenure, and her infant children, againſt James Stewart now in the pannal, accuſed as guilty, actor, art and part of the murder of Colin Campbell of Glenure, a murder aggravated by its being committed from a malicious hatred and reſentment conceived againſt Mr. Campbell, on account of the faithful diſcharge of his duty in an office intruſted to him by his Majeſty.

This crime, my Lord, is in itſelf ſo horrid, and in the preſent inſtance is attended with aggravating circumſtances of ſuch an extraordinary nature, as muſt rouze the indignation of every worthy member of ſociety, and call loudly for the moſt ſevere and exemplary puniſhment. Murder has always been looked upon as one of the moſt heinous crimes; but in all civilized countries, at all times, that baſe, that treacherous ſpecies of murder, aſſaſſination, has been held in ſtill greater, as more deſerved abhorrence;—— what then muſt be the degree of that man's guilt, who deliberately, unprovoked, in cold blood, during times of full peace, and in the moſt contemptuous deſpite of government, commits this moſt treacherous, and moſt abhorred of all murders! Heavy as that load of guilt is, I am ſorry to ſay, my Lord, it lies with its utmoſt weight upon the priſoner now before you; which renders this trial of great importance to every in-

dividual, but of ſtill greater to this country in general. If aſſaſſins, capable, my Lord, of lying in wait with premeditated malice, with malice concealed in their hearts, for hours, for days; if ſuch are ſuffered to go unpuniſhed, who of us all, is ſafe, what individual, however innocent, however brave, however particularly intitled to the publick protection! But what, I hope, my Lord, we all hold of greater importance than the ſafety of individuals, the intereſt, the honour, of this country is very nearly concerned, not to ſuffer the moſt daring and bare-faced inſult to be offered to his Majeſty's authority and government; and offered at a time when we, in common with his Majeſty's other ſubjects, are reaping the fruits of his moſt benign reign. I ſay, my Lord, our intereſt, our honour, is concerned, not to ſuffer this, without endeavouring to wipe off the ſtain from the country, to ſhew the King, and to ſhew the world, that this is the bloody deed of one or two wicked and deſperate men; a deed which the country abhors, and which it will not ſuffer to go unpuniſhed.

The gentleman who opened the defence, my Lord, has been as good as his word, and has given indeed a plauſible account of this affair; which makes me think it neceſſary to lay before the court, as diſtinctly and as conciſely as I can, that ſtate of the facts which there is the greateſt reaſon to believe the proof will eſtabliſh. And, in doing ſo, I hope to give your lordſhips a more juſt view of this extraordinary caſe; and at the ſame time, to be of ſome uſe in leading

the

the gentlemen of the jury to thoſe parts of the proof which deſerve moſt their attention.

The pannel, James Stewart, my Lord, is natural brother to Mr. Stewart of Ardſhiel, who commanded the men of that name that were engaged in the late rebellion, and, by means of that, he acquired their affections and attachment. When Ardſhiel was obliged to leave the country, his brother (the pannel) ſet himſelf at the head of the family-intereſt: and it not appearing in that part of the world a forced tranſition, he was allowed to take this authority upon him. In a ſhort time therefore, he came to be a leading man, and to have the chief influence over the common people. Such, my Lord, was the ſtate of that corner of the country in the year 1749, when Mr. Campbell of Glenure was appointed factor for his Majeſty upon the eſtate of Ardſhiel, and ſome other forfeited eſtates in that neighbourhood. James Stewart ſoon foreſaw how much this factory muſt interfere with the plan which he had laid, and with the intereſt which he wanted to eſtabliſh; Glenure, therefore, very early became the object of his ill-will. But it did not long reſt there; for, in the year 1751, Glenure having, in conſequence of orders from the barons of exchequer, cauſed Mr. Stewart to be removed from the farm which he poſſeſſed upon the Ardſhiel eſtate, what was before but ill-will, was now turned into hatred and reſentment. This led him to oppoſe all Glenure's meaſures, and particularly to play the volunteer in the ſervice of ſome other tenants upon the ſame eſtate, whom Glenure was about to remove at the enſuing term: For this purpoſe, he repaired in perſon to Edinburgh,

burgh, and, in name of thoſe tenants, tho' without the ſmalleſt commiſſion or authority from them, made be preſented to the Lords of ſeſſion, a bill of ſuſpenſion of the intended removal, and obtained a ſiſt of execution; this ſiſt he prevailed upon the tenants to intimate to Glenure, who was put to the trouble and expence of a journey to Edinburgh, before he could have the groundleſs bill of ſuſpenſion anſwered; which was indeed all that was neceſſary in order to make it be refuſed.

Mr. Stewart, my Lord, little ſatisfied with this unſucceſsful attempt, which confirmed Glenure's influence at the expence of his own; and finding himſelf forced to quit the country, and to abandon his favourite plan of popularity, formed a moſt deſperate ſcheme of revenge, no leſs than a plot to take away the life of Glenure in the baſeſt manner. In purſuance of this ſcheme he was at pains, over all the country, to repreſent Glenure's conduct, in the moſt diſadvantageous light; and, when he thought there was a general odium raiſed, he had recourſe, in a more particular manner, to thoſe in whom he could moſt certainly confide, to thoſe who were moſt eaſy to be ſtirred up, and moſt inclined to any deſperate deed. Different ſets of ſuch men, my Lord, he aſſembled at different times, and, after expatiating againſt Glenure's ill conduct, he uſed all his art to convince them, that it was their duty to free the country of what he was pleaſed to call Glenure's oppreſſion; telling them, that he had once ſeen *commoners* in Appin who would, long ere then, hav e ſtopped his career; and that he could aſſure any of them, who was hardy enough to undertake

ndertake it, a certain eſcape to France, and a handſome penſion afterwards! By thoſe methods, my Lord, Mr. Stewart uſed his utmoſt endeavours to ſtir up ſome hot-headed ruffian to the execution of his plot; but his endeavours were long uſed in vain, till at length Allan Breck Stewart was thrown in his way, a man marked out for ſuch a purpoſe; a deſerter from our ſervice to that of the French; one who, in both countries, was a man of deſperate fortune, but who, in this, had not only loſt all title to the protection of the law, but was become obnoxious to its ſevereſt penalties. This man, James Stewart immediately laid hold of and cheriſhed. It was eaſy to ſtir him up to reſentment. To him therefore he communicated the whole of his deſign, and with him he concerted the execution of it. Allan had nothing to loſe; therefore it was determined he ſhould be the actor, whilſt James ſhould ſtand by to protect him, and to turn the miſchief as much as poſſible to his own advantage. Happily, my Lord, keenneſs and reſentment, as uſual in crimes, got here the better of caution, not only with Allan, but even with the more ſagacious James; for, in the midſt of their moſt cunning contrivances, they could not refrain from uttering ſuch ſtrong and particular threats againſt Glenure, as immediately pointed them out for the objects of general ſuſpicion. Both of them have many times threatened him with death, and both of them have even gone beyond general terms; for Allan declared *he would, on the firſt occaſion, ſhoot him as he would a black cock*; an expreſſion very applicable to the baſe manner which he afterwards

wards made uſe of: and James, ſtill more inve
terate, ſwore, in the fulneſs of his heart, *Th*
he would ſhoot Glenure, even if he himſelf was
diſabled as to be obliged to go upon his knees to
window in order to do it. Theſe are inſtances o
the threats which they made uſe of, which fir
pointed them out, and which muſt ſtill go a gre
way in convincing every thinking man, that the
and they only, were his murderers.

In conſequence of their laſt reſolution, that Al
lan ſhould act, whilſt James ſtood at the helm
Allan laid himſelf out to get particular informatio
of Glenure's motions; and, for that purpoſe, h
contrived to make a viſit at Faſnacloich, the ve
ry next houſe to Glenure, and within a mi
of it; there he remained upon the look-out ti
Monday the eleventh, when Glenure ſet o
from his own houſe for Fort-William. Upo
which Allan immediately repaired to his aſſocia
James, to communicate the intelligence he ha
got, *viz.* That Glenure was gone to Lochabe
that he was reſolved to perſiſt in removing the te
nants of Ardſhiel, and was certainly to return f
that purpoſe before the term-day, the fifteent
Having upon this information conſulted togethe
and ſettled the plan of operations; the pann
furniſhed his friend with a dreſs more proper f
what he was going about, giving him a ſuit
his own cloaths, a black ſhort coat, trouzer
and a blue bonnet; and, thus equipped, he ſ
out the next morning, Tueſday the twelfth; bu
knowing that Glenure might poſſibly not retu
for a day or two, in order to avoid ſuſpicion, h
made a tour among his relations, going firſt to Ball
cheliſh, from thence to Glenco, from thence

Callar

allart, where he ſtaid Tueſday night, and, on Wed-
eſday the thirteenth, he went back, by the ſame
ut, to Ballacheliſh; in all which circuit, he was
hand to lay wait for Glenure, at whatever time
ſhould return from Lochaber. On Thurſday
e fourteenth, when there was a moral certain-
that Glenure would return (he having appoint-
a meeting with ſeveral gentlemen in the coun-
y of Appin that evening) Allan left Ballache-
h's houſe under pretence of fiſhing, and, very
on after, appeared at the ferry of Ballacheliſh,
which Glenure muſt neceſſarily paſs, in his
ay from Lochaber, to Appin: there he met the
rryman, and, haſtily calling him aſide, inqui-
d, with more than ordinary earneſtneſs and an-
ety, if Glenure had paſſed there that day; and,
ing anſwered that he had not, Allan immedi-
ely ran up the hill, towards the high grounds
ove the houſe; from whence he had a view of
e country around, on both ſides of the loch,
d a ſhort paſſage into the wood of Lettermore.
this wood, my Lord, it was, that he marked
t a moſt proper ſtation for the execution of his
ſperate deſign; a little thicket, on a riſing
ound, within a few paces of the high way, along
hich every traveller muſt neceſſarily paſs; from
ence, himſelf unſeen, he could diſtinctly
the road leading to the ferry of Ballacheliſh
the Lochaber ſide, and the road on the Appin
e, leading from thence to the wood of Letter-
re. Here, my Lord, he poſted himſelf with
e or two loaded guns provided for the purpoſe;
d here he lay in wait till Mr. Campbell of Glen-
e had paſſed the ferry, and was riding along
the

the road thro' the wood. It was then, my Lo
that Allan Breck ſeized this long wiſh'd-for opp
tunity, and when Glenure was come within co
venient diſtance, this abandoned aſſaſſin ſhot h
dead with two balls from behind: a deed as co
ardly, as it was barbarous and inhuman! a deed
which there is hardly an example in this part of
kingdom, whoſe inhabitants, however raſh they m
be to brave dangers in an open manner, have nev
till this atrocious crime of their unworthy count
men, been branded with the ignominy of baſe
cowardly aſſaſſination!

Allan having thus executed his deadly p
poſe, immediately diſappeared in order to bet
himſelf to the concealment provided for him, c
ling in his way, after a hidden manner and
midnight, at Glenco's houſe, where he infor
ed the lady and her ſon that Glenure was m
dered, and, without any more converſation of
ther ſide, added, as a conſequence of what
ſuppoſed known, that he himſelf was immedia
to leave the country. Soon after this, he arriv'd at
allotted retreat, the ſhealing of Koaliſnacoan,
habitation of the truſty bouman; and, in a c
verſation which he and the bouman had there,
talked of the murder in a more remarkable man
than he had even done to Lady Glenco; for, a
faintly enough denying his own concern in it,
told his friend that he was ſure the family of A
ſhiel would be ſuſpected, particularly James Stew
and his ſon Allan; uſing this remarkable
preſſion, That there would be no fear of them,
their own tongues did not betray them, eſpeci
Allan's, who, he fear'd, was more open mou
than his father.

All this while, my Lord, the pannel remained at ome undiſturbed, and when the accounts ame of Glenure's murder, and every body elſe n the neighbourhood was haſtening to go to ook after the corpſe, he never offered to ſtir, nay, e would not ſuffer any one of his family to go ear it. He, my Lord, had other things to mind; ot the unhappy murdered, but the babarous murderer was the object of his attention; his own preervation was ſo cloſely linked with Allan Breck's, hat there was a neceſſity for Allan's being kept out f the way at any rate; James therefore immeiately diſpatched Alexander Stewart packman, his elation, and a perſon in whom he had entire confience, to Fort-William, with a moſt preſſing demand, as he himſelf acknowledges, for money to upply his friend Allan, and to enable him to make is eſcape from juſtice; and when the packman eturned with a leſs ſum than was expected, James, n the moſt critical juncture of his own affairs, add-d two thirds of the money which he had for his wn ſupport, to the ſum brought from Fort-Villiam, and ſent away the faithful packman, ith this money and his French cloaths, to Alan Breck, giving particular directions with reard to the place of his concealment; a circumtance no one can well be ſuppoſed to have known who was not in the ſecret, who was not originally rivy to the crime for which he was obliged to ave recourſe to that concealment.

Theſe, my Lord, are the facts which, I have eaſon to believe, will ſoon be prov'd to your ordſhip. The gentleman has been pleas'd to expreſs his ſurprize, that, after ſo ſtrict an inqui-

ry, this ſhould be all that is made appear; and t
ſay that theſe facts are trivial, and not relevant to in-
fer the crime; but I cannot think any impartia
man who has read the indictment now in my hand
will join in the gentleman's ſurprize; on the con-
trary, I believe, every ſuch perſon muſt join wit
me, in thinking no ſmall praiſe due to the ver
proper encouragement and aſſiſtance of the crown
and to the very uncommon diligence and activit
of the private proſecutors, which together hav
been able to throw ſo much light upon ſo dark
ſcene. Your lordſhip has been told, that the fact
mentioned are not ſufficient to infer the crim
libelled. I need hardly obſerve, my Lord, tha
ſuch crimes are particularly villanous and deſtru
ctive, from the hidden and concealed manner i
which they are committed, which allows of no de
fence, and too often ſcreens from puniſhment
their very nature does not admit of ſuch a proof a
may be expected in other caſes; a proof b
circumſtances is all that can be looked for; indee
when that is concluſive, it is of all others the mo
convincing. Witneſſes may be partial, they ma
be perjured, but a cloſely connected chain of ci
cumſtances is liable to none of thoſe objection
Now, my Lord, I humbly apprehend, no cha
of circumſtances can be ſtronger, nor more cloſe
connected, than that which I have juſt laid befo
your lordſhip. You ſee a diſcontent rationall
nay probably accounted for; the ſtrongeſt and mo
particular threats following that diſcontent, an
the commiſſion of the crime as immediately fo
lowing theſe threats; the cleareſt inſtance of th
malum minatum, et damnum ſecutum. But it do
not reſt here; you ſee, my Lord, the murder
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traced from day to day, from hour to hour, from place to place, to the very day, the very hour, almoſt to the very ſpot in which the murder was committed; and you ſee his aſſociate in the ſtrict-eſt connexion and intimacy with him, caballing in private, and furniſhing him with a proper dreſs, before the murder, and, after it, furniſhing him with cloaths and money, to enable him to fly from juſtice; and, what deſerves particular attention, you ſee his aſſociate minutely acquainted with the place of his concealment, the place previouſly pointed out for his retreat, and the murder-er, in that retreat, where he thought him-ſelf in ſafety, expreſſing his concern for his friend in very remarkable terms; in terms which carry a ſtrong conviction of their guilty conſpira-cy, but, at the ſame time, ſhew the cunning with which they were conſcious of having con-ceived it. I cannot doubt, but your lordſhip will think this a chain of circumſtances, more than ſufficient to infer the crime libelled: at the ſame time, I muſt beg leave to obſerve, that, in ſuch an indictment as this, there was no neceſſity of mentioning any one circumſtance; it would have been ſufficient in law, and the gentlemen acknowledge it, to have libelled art and part in general terms; that is, that, time and place libel-led, the crime was committed, and that the pan-el was guilty art or part of that crime. Now, my Lord advocate, from the humanity of his profeſſion, from a deſire that every offender, however heinous his offence, ſhould have the fareſt trial, and every opportunity of making his defence; if, from theſe motives, he has given a ve-

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ry long and particular indictment, when only
very ſhort and general one was neceſſary, t
ſomewhat invidious in the gentlemen of the o
ther ſide, to turn this into an objection to th
relevancy. But let them, my Lord; the point
fixed, as well by law, as by uniform practice
and therefore, whilſt we contend, that the cir
cumſtances, as particularized in the indictment
are fully relevant, we, at the ſame time, humbl
hope, from your lordſhip, an interlocutor upo
the general point of art and part, independent o
theſe circumſtances.

It has been objected to this indictment, that a
acceſſary is here brought to trial before the prin
cipal is convicted, which is attended with the
bad conſequences, that proof muſt be led again
the principal in abſence; that his greateſt enemie
may be produced as witneſſes, and the proper ex
culpatory defences may be omitted. And furthe
your lordſhip has been told, that this is contra
ry to the laws of neighbouring nations, particula
ly that of England, and contrary to the law o
Scotland, as handed down to us in the books o
Reg. Maj. Quon. Attach. ſtat. Dav. II. and *S*
Geo. Macken. There might, my Lord, hav
been ſome room for ſuch an objection, if no form
notice had been taken of the principal; but I ca
hardly think any objection will be admitte
in the preſent caſe; when the principal
indicted, when every legal ſtep is taken by th
proſecutors for bringing him to juſtice, and whe
the only conviction which our law admits of i
ſuch caſes, is gone againſt him. The inconvenie
cies which it was ſaid might follow from the pr
ſe

nt practice, are trifling, compared to thoſe hich muſt be the neceſſary conſequence, if the ws allowed not an acceſſary to be tried, whilſt the rincipal, conſcious of his own guilt, dared not to ppear. 'Tis but finding out ſome deſperate fel- w for the execution, who can afterwards be ea- y kept out of the way; and the moſt inhuman ts muſt go unpuniſhed, the moſt abandoned vil- ins may laugh at juſtice. The authorities pro- uced in point of law are, no doubt, great; but mes and circumſtances derogate from the great- t authorities. If what *Sir Geo. Macken.* has gi- n us as his opinion was once law, it is beyond l doubt by later practice no longer held as ſuch; d it ſignifies as little what is the law of neigh- uring nations, as what was once our own law, if ſtom, the juſteſt of all legiſlators, directed by com- on ſenſe and equity, has now enacted the contrary. The hardſhips, my Lord, which it is pretend- the pannel underwent, can never be admitted objections to this indictment. That they may t, however, leave any impreſſion upon the gen- emen of the jury, or even upon this audience, I all give your lordſhip the true account of what e called hardſhips; and they will no longer ap- ar to be ſuch. That upon which moſt ſtreſs ems to be laid is, that the pannel's wife and his ildren, who, by law, cannot be called as witneſſes ainſt him, have been precognoſced, or judicially amined, and that their declarations are propoſed be produced in this trial. The fact is true; and thing is more eaſily accounted for. When this urder was committed, all was confuſion and igno- nce; and every method that could be imagined was found

found neceſſary, in order to get to the bottom o
the deep laid plot. It was at that time that Jame
Stewart's family, in common with all in tha
neighbourhood, were called before a judge, an
examined upon what they knew of Glenure's mur-
der: it was more than probable, that ſome one o
that country committed the murder, and that ma-
ny in that country were in the ſecret of it: bu
when theſe people were examined, neither o
theſe acts of guilt was charged upon any particula
perſon: Allan Breck was not then accuſed of th
actual murder, nor James Stewart of being acce
ſary to it. So that his wife and children were
really not examined with any view to him; the
were examined, to diſcover the truth in genera
before it was known upon what particular perſo
the accuſation would fall: whether their declara-
tions will be produced in this trial, may be a que-
ſtion afterwards; but, in the mean while, it ap-
pears not contrary to law or equity, that they ſhoul
be produced: it is confounding things to ſay tha
this is making the pannel's wife and children wit-
neſſes againſt him; the declarations will not be pro-
duced to prove the truth of any thing contained i
them, of which they would not be legal evidence
they are only to prove, that the perſons who emitte
the declarations, averred theſe things; and, if an
words of theirs could give cauſe of ſuſpicion a-
gainſt the pannel, it would be ſurely competent
to prove ſuch words, by the teſtimony of thir
parties. Does it not then come altogether to th
ſame purpoſe, to prove them, by production o
the words themſelves judicially committed to wri-
ting? The cloſe confinement of the pannel, a
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well as that of ſome others, who were then taken up upon ſuſpicion of guilt, but are now to be produced as witneſſes, was owing to the rules of the place where they were confined. His Majeſty's garriſons have been uſed as priſons more for the cuſtody of ſtate priſoners than of common criminals: it is not to be wondered at, then, if military officers, unacquainted with the diſtinctions of law, applied to the latter, the orders which they were in uſe to receive for the former: as ſoon as the law was explained, it was obeyed; nor is it pretended, that the pannel, or any other, was cloſely confined one hour after the commanding officer was informed that the law forbad it. 'Tis true, a new commanding officer came, to whom the law was not immediately explained, which occaſioned the ſecond cloſe confinement complained of; but he, as well as his predeceſſor, paid obedience to the law, as ſoon as it was made known to him. That it was not therefore made known to both, as ſoon as might have been, the pannel's council muſt account for. That was altogether their buſineſs; and the conſequence, whatever it be, which may ariſe from the neglect of it, ought not to fall upon the proſecutors, far leſs upon the gentlemen of the army, who, the pannel himſelf acknowledges, have all, in any charge they had of him, done their duty with the utmoſt humanity, always like ſoldiers, and like men. It is ſurpriſing, the gentlemen ſhould mention, as a hardſhip, their being refuſed acceſs to the pannel, after they came to Inverary; they muſt be conſcious, that this was a hardſhip of not an hour's duration. They required admittance

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from the chief magiſtrate, who, not caring, a
the Duke of Argyll was upon the ſpot, to take a
ny ſtep without his grace's approbation, ſent di
rectly to acquaint him of the demand; and hi
grace gave immediate orders for their admittance
The gentleman, who ſpoke firſt, mentioned on
thing, which I dare to ſay, he alone will thin
a hardſhip upon the pannel; I mean, my Lord
it's having fallen to that gentleman's ſhare to ope
his defence; and I cannot help thinking the com
plaint of the pannel's want of able aſſiſtance, co
ming from that ſide to this, looks like banter: fo
ſetting aſide my Lord advocate, whoſe office ob
liges him to aſſiſt the proſecutors; I need only be
your lordſhip will caſt your eye, firſt to the on
ſide of this table, and then to the other, in orde
to judge where the advantage lies, in age and ex
perience.

Upon the whole, my Lord, I cannot doubt b
your lordſhip will find this libel relevant to inf
the moſt ſevere pains of law, as the crime libell
is of the moſt heinous nature; and that you w
remit the pannel to the knowledge of an aſſiz
who, I find, from the liſt in my hand, muſt
men above the imputation of any other prejudic
but what every good man muſt feel againſt ſo ho
rid a crime; a prejudice, which, I am ſure, th
will carefully diſtinguiſh, as I hope we all d
from any perſonal prejudice againſt the panne
who has an undoubted right to demand their mo
impartial attention to the proof, by which alo
his innocence muſt ſtand confeſſed, or his gu
meet with its deſerved puniſhment.

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Mr. *ERSKINE againſt the pannel.*

My Lords,

I Have likewiſe the honour to be of council for the proſecutors in this trial, and, as ſuch, it is my duty to ſupport the charge exhibited in the libel; which has been juſt now very fully and diſtinctly opened.

The importance of the trial, the reſpect I have for the honourable court, and this audience, were alone ſufficient to have laid me under great uneaſineſs: but that uneaſineſs is greatly increaſed, when I find myſelf engaged in a taſk, which I am, at preſent, but ill prepared to execute.

Tho' I early and willingly engaged to take a part in this trial, an unexpected diſtreſs, which has, for ſome days, diſſipated my attention to buſineſs, made me hope the proſecutors would have relieved me of an engagement which I was unfit to perform, and diſpenſed with my attendance, which, I apprehended, could not be material to them; but in this I have been diſappointed by the indiſpoſition of a gentleman of great abilities and experience, which has unhappily deprived them of his abler aſſiſtance.

For this reaſon I will beg leave to confine myſelf entirely to make the proper anſwers to the arguments which have been urged by the learned gentlemen in defence of the priſoner.

I ſhall forbear to enlarge upon the many aggravating circumſtances that appear in the horrid ſcene juſt now opened to your lordſhips.

I will not attempt to inflame the jury, by giving looſe reins to an imagination, warmed by a real regard for the gentleman deceas'd, compaſſion for the widow and the fatherleſs, under peculiar circumſtances of diſtreſs, a high concern for the intereſt of this country, and the preſervation of our preſent happy conſtitution: all which appear to have been ſtruck at by the hand that gave this wound.

Theſe conſiderations cannot fail to kindle indignation in every breaſt; and I am confident they have already had the effect to rouze the attention of the court, and balance a miſplaced compaſſion, not unnatural to humane minds, which ſometimes blunts even the ſword of juſtice: but the proſecutors do not expect to obtain a judgment againſt the priſoner in this court, upon any other foundation than a real conviction of his guilt, ariſing from evidence clear, unexceptionable, and agreeable to the laws of this country.

The laws of this country are favourable, particularly favourable to perſons under trial for their life; and the proſecutors are willing to allow the priſoner the full benefit of every advantage that theſe laws, or the practice of the court can give him a title to.

This being the caſe, I cannot omit obſerving how improperly the priſoner has reſted the greateſt weight of his defence upon clamorous aſſertions of unfair advantages, and unlawful oppreſſion upon the part of the proſecutors.

For, 1*mo*, tho' they were founded on truth, they would not amount to a defence againſt the libel: one crime cannot compenſate another, nor an

an injury received from the proſecutor, wipe away the guilt of the priſoner.

But 2*do*, theſe are meaſures ſo inconſiſtent with that glorious ſpirit of liberty that reigns even among the rulers in this age and nation, ſo inconſiſtent with the known mildneſs and clemency of his Majeſty's government, and the unfortunate circumſtances of the private proſecutors in this trial, that I can hardly perſuade myſelf it would be neceſſary to make a more particular anſwer to theſe complaints.

Nevertheleſs, as I am ſenſible that nothing is more inſeparable from noble and generous minds, than a deſire to throw every atom into the balance on the ſide of the diſtreſſed, while there remains a poſſibility of their innocence; and that a ſimple ſuſpicion that the priſoner had ſuffered any unneceſſary hardſhip, or been deprived of any means of defending himſelf, might avail him more in the event of this trial, than the beſt defence in the mouth of the ableſt advocate; for that reaſon, I will beg leave, in a few words, to ſhow the court what foundation there is for ſuch complaints.

The firſt was, that the proſecutors had deprived him of the benefit of council, by retaining moſt of the ableſt lawyers at the bar.

To this I can make no ſtronger anſwer, than what the court has juſt now heard from the very gentlemen who make the complaint, and will be confirmed by theſe who are to ſupport them. I am confident they will convince the court, and all who hear them, of the abſurdity of ſuch

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a complaint, when urged by four gentlemen of ſuch abilities.

In the ſecond place, it has been ſaid, that the priſoner had been deprived of his liberty, and kept in cloſe confinement contrary to law, debarred the converſation of his family and friends, and denied acceſs to ſpeak either to his agents or witneſſes.

To all which it may be anſwered in the general, that the laws of every well governed realm certainly allow the confinement of perſons charged with capital offences, in ſuch manner as they may be ſecured, till they can be brought to trial. That no limitation of this rule has been introduced, either by law or practice in Scotland, other than what is contained in that valuable and ſalutary ſtatute of Parl. 1. Seſſ. 9. of King William, for preventing *wrongous impriſonment*. No part of which has been infringed in the preſent caſe.——That the priſoner has been, ſince he came to this place, ſtrictly confined, cannot appear unreaſonable or oppreſſive to thoſe who know that of late, in ſpite of the vigilance of the magiſtrates, ſeveral criminals have eſcaped from their goal, whoſe caſes were leſs deſperate than his, and who had no formidable tribe of friends or accomplices, to aſſiſt their eſcape.

It will not appear ſurpriſing or unjuſt, that the magiſtrates were cautious to give acceſs to any perſons, under the colour of their being agents or witneſſes, without a proper warrant, when it appears from the proof to be brought in the trial, that, during the priſoner's confinement, in the garriſon at Fort-William, he found means

to

tamper with the principal evidences, (tho' al- in cuſtody, in order to prevent ſuch undue fluence) by emiſſaries who carried repeated meſ- ges in his name.

This, I think, might likewiſe appear to be a od reaſon for the officer commanding at Fort- Villiam, to be particularly careful to interrupt nd prevent theſe practices, by denying acceſs the perſons by whoſe means they were known be carried on.

But, as the priſoner's complaint has been loud on this head, I muſt beg leave to recal the tention of your lordſhips and the jury to one f the facts libelled, from which the acceſſion the murder is inferred, it is the ſupplying e murderer with money to enable him to fly om juſtice; let it be remembered in what man- r it was executed; the priſoner was indulged the officer commanding the party that ap- rehended him, to ſpeak with his wife apart, efore he was carried off: the uſe he made f that indulgence, was to give her the greateſt art of the money in his pocket, with inſtructi- ns to ſend it and the murderer's cloaths to the lace where it had been concerted he ſhould ait for them.

The indulgence upon the part of the officer as natural and humane; from the circumſtan- es that were then known, there was no reaſon ſuſpect, that ſuch uſe would have been made f it; and by God's good providence it is be- ome a material circumſtance in the inveſtigati- n of the ſource of the horrid ſcene of iniqui- before the court.

Now,

Now, as this fact is admitted to be true, I m
ſubmit, what foundation there is to complain of
verity: whether the commanding officer had r
ſon to repeat ſuch indulgences, or to give unlim
ed acceſs to his family and relations? neverthe
I am well authoriſed to ſay, that, at Fort-Willi
the priſoner had many and great indulgences
this kind, that he was allowed to take the air
the garriſon, and to converſe with his friends
relations, in ſuch manner as was conſiſtent with
ſafe cuſtody of his perſon, and the inquiries wh
were then carrying on by the proper officers: a
both before and ſince he was brought to this pl
his agent and lawyers have had acceſs to be w
him as often as applied for in a proper way.
was not indeed allowed acceſs to ſome of his
vants and dependents, from whom material e
dence was expected; with whom he had b
tampering, and who had declared, they were
verawed by his authority: but, for that, I app
hend, no apology is neceſſary.

In the laſt place, your lordſhips have he
much from the council for the priſoner, of
fair means that have been uſed to traduce his c
racter in the country, and to prepoſſeſs the wo
with an opinion of his guilt, by which he is
to be, in ſome meaſure, condemned before h
brought to trial.

I muſt beg your lordſhips and the jury to c
ſider the circumſtances of the proſecutors who
charged with theſe practices. Has the diſcon
late widow, who has no relation, and ſcarce an
quaintance in this corner of the iſland, been
ſucceſsful in prepoſſeſſing the country with an
pini

ion of the priſoner's guilt? or are her children, et uncapable of ſpeech, fit to aſſiſt her in tra- ing his character?

f the relations of the deceas'd had attempted it hout foundation, they would have gained no dit with the impartial world; or would have n counterbalanced by the numerous relati- of the priſoner, at leaſt in this country. Ne- theleſs, my Lords, I will admit that he labours er great diſadvantages upon this head; a gene- opinion of his guilt has prevailed; and I am y to ſay, that he has many and ſtrong adver- es, who have been buſy to eſtabliſh it. *Ma- eſt veritas et prævalebit.* The horror of the ne with which he is charged, has raiſed the ntion of every impartial perſon, and made n induſtrious to diſcover the authors of it.

he blood of the innocent has called aloud to ven for juſtice; and, by a remarkable concur- e of many circumſtances, brought to light he declarations of a cloud of witneſſes, the oner is clearly pointed out, not indeed as the cutioner, but the contriver of the murder, the aider and abettor of the murderer.

will not ſay, that his character in private life curs againſt him; I have no authority from employers to aſſert it; nor will I aſſert what ot ſupported by evidence. But I muſt ſay, his family and connexions, his character and duct in public life, are ſo many circumſtan- forming a preſumption almoſt equal to a proof, ſupport of the charge brought againſt him. ſe are the moſt powerful adverſaries he has to ggle with, and from them that general opini-

on

on of his guilt has taken its riſe, which is unju
ly aſcribed to the proſecutors.

What has been ſaid, my Lords, would natur
ly lead me, in the next place, to lay open, to t
conſideration of the court, the particular circu
ſtances ſet forth in the libel, from which the p
ſoner's guilt is inferred; and to take notice of wh
has been ſaid in his defence upon that head; b
in this I have been well prevented by the gent
man who ſpoke laſt; and therefore, I ſhall on
beg leave to add a few obſervations to what h
been ſaid by him.

The court has been informed, that Mr. Cam
bell of Glenure was appointed factor on the f
feited eſtate of Ardſhiel; that the priſoner is na
ral brother to the forfeiting perſon, in whoſe a
ſence he fell to have the leading of his dep
dents, and the protection of his family: un
that character, as he had an intereſt, ſo he h
opportunities of oppoſing the factor in the exe
tion of his office: that this oppoſition grew
degrees to the height of premeditated malice, wh
ſoon after broke out in repeated threatnings, a
at laſt, ended in aſſaſſination and murder.

On the other hand, the council for the priſo
have aſſerted, that there was no enmity or ma
between Glenure and him; but contrarywiſe
confidence and friendſhip, which they offer to ſ
port by letters written by Glenure to him. Now
this muſt appear to be inconſiſtent with the cha
in the libel, I muſt beg leave, in a few words,
reconcile them.

When Glenure was appointed factor on
eſtate of Ardſhiel, he was ſo far from ſhowing

diſpoſition to be ſevere upon the tenants, or to
t hardſhips on the family and friends of the for-
ting perſon, that he treated them with the ut-
oſt humanity: and the priſoner in particular had
e addreſs to inſinuate himſelf ſo far into his con-
ence, as to be employed in collecting the rents,
d adviſed with in the letting of the farms; and,
ring this period, the letters referred to were
itten. But, as the priſoner undoubtedly took
vantage of this confidence to bring tenants into
e eſtate, that were entirely under his influence,
d to make ſeparate agreements with them in fa-
urs of the forfeited perſon and his family, in
fraud of his Majeſty and the *public*; the ba-
ns of exchequer juſtly took exception againſt
s part of Glenure's conduct: and, to prevent
h abuſes for the future, gave him particular in-
uctions in writing, to remove the priſoner from
eneficial farm which he poſſeſſed, and alſo a-
other of the tenants who were connected with,
under the influence of the forfeiting perſon and
family.

Theſe inſtructions were executed in part at
hitſunday 1751, by the removal of the pri-
er from his farm; but as he eaſily procured
other in the neighbourhood, and retained his
luence over the eſtate by the means of the te-
nts he had placed there, he diſcovered no re-
tment at that time.

But ſo ſoon as the factor, in the further execu-
n of his inſtructions, began to take the proper
aſures for removing, at Whitſunday 1752, ſome
theſe tenants, he then took the alarm: that
s to pluck up his intereſt by the root, and entire-

ly to put an end to his influence. He therefor made the cauſe of the tenants his own, and ever method of oppoſition was tried to prevent the removal.

He no longer affected any intimacy or friend ſhip with Glenure, but took every occaſion to rai diſcontent and jealouſies againſt him, and repreſe him as an oppreſſor in the country. At la without any authority from the tenants who we to be removed, he took a journey to Edinburg on his own expence, and applied, by a bill of ſu penſion, to the court of ſeſſion in their names; which the factor's conduct was ſet forth in ſuc falſe and odious colours, as procured a ſiſt ſtop of execution of the decree of removing, pr nounced by the ſheriff, at the factor's ſuit; an by the ſame falſe ſuggeſtions, he ſo far impoſ upon ſuch of the barons, as were then in tow as to make them liſten to his complaints agai Glenure.

When Glenure was informed of all this, went directly to Edinburgh by great journey and, as ſoon as he had an opportunity of be heard, he obtained a removal of the ſiſt from t court of ſeſſion; and ſatisfied the barons, that had conducted himſelf entirely by their inſtruc ons. And, having been only two days in tow he returned with expedition to the count Whitſunday being then near at hand.

This ſcheme being fruſtrated by the diligen and activity of the factor: meaſures of a differ nature became neceſſary.

The priſoner had no hopes of being able keep up his influence and intereſt in the eſta wh

hile Glenure continued to have the management
f it; and if he ſhould be able to get the better of
im, he had reaſon to think no other would be ſo
ardy, as to undertake it. It was therefore re-
lved to take him off, and that before he ſhould
move the tenants.

For the execution of this ſcheme, a very pro-
r aſſiſtant was at hand; Allan Breck Stewart,
perſon in deſperate circumſtances, who had al-
ady forfeited his life to the laws, and inliſted
mſelf an enemy to the liberties of his country;
dependent of the family of Ardſhiel; brought
from his infancy, under the care and authori-
of the priſoner.

With this aſſiſtance, no method was left unat-
mpted to ſtir up the populace, or ſome of the
rdieſt among them, to cut off Glenure by vio-
nce. Their attachment to their chief was
ade uſe of for that purpoſe. The preſervation
his family, the welfare of their country, and
en the very being of the clan, were repreſented
inconſiſtent with allowing Glenure to live.
eproaches were uſed to ſome, rewards offered to
hers, and ſtrong inſinuations made by the pri-
ner to his own domeſtic ſervants: but all this
d not the deſired effect.

Wherefore, on Monday the 11th of May,
lan Breck, who had no other occupation but
andering from houſe to houſe amongſt his
ends, and was thereby well able to trace all
lenure's motions, came to the priſoner's houſe,
hen the reſolution appears to have been taken,
at Allan himſelf ſhould ſet out early next
morning

morning to way-lay Glenure, and take the firſt opportunity to perpetrate the murder.

This was no difficult taſk to one who knew the country. There were but three days to run to the term for the removing. In that period, it was known that Glenure was to go from his own houſe, to the ſheriffs court at Fort-William, and return to the lands from whence the tenants were to be removed. The nature of the country, and the ſeveral ferries which he could not avoid, made it certain what road he muſt take, and a wood near the lands afforded a proper place for the bloody deed. But Allan's dreſs being the French uniform, was too remarkable for an executioner of the works of darkneſs: he was therefore ſupplied with another, of the uſual colour and faſhion of the country, by the priſoner. The court has heard how he then took his ſtation at a place within ſight of Glenure's houſe, till he ſaw him ſet out for Fort-William, and then how he retired towards a ferry, where it was known Glenure muſt paſs in his return.

In the mean time, meſſenger after meſſenger is ſent to Fort-William by the priſoner, to get more particular intelligence of Glenure's motions. On the night of the 13th, Allan came to a place adjacent to the ferry, and retired, in the morning into the wood, from which he only came out to inquire if Glenure was paſt. About this very time a gun, belonging to the priſoner, was miſſing; and, in the evening, Glenure was ſhot in the wood.

When the horror of the murder, threw all the neighbourhood into confuſion and conſternation,

no ſurprize appeared upon the priſoner, or in his family. Their attention was entirely fixed upon the execution of the meaſures that had been concerted for facilitating the murderer's eſcape; for that purpoſe, a meſſenger was diſpatched to procure money: upon the return of that meſſenger (tho' the priſoner was then in cuſtody) the money he brought, with what more the priſoner could afford, and alſo the French cloaths, were, by the priſoner's direction, carried to a remote place in the mountains, where Allan Breck had for ſome time waited in expectation of them. At the ſame time the priſoner's arms, which had been concealed near his houſe, were diſcovered; and the very gun which had been miſſing on the day of the murder, was found amongſt them, with ſuch marks as ſhowed that it had been lately diſcharged.

Thus, my Lords, as I had occaſion to mention ſome of the facts to be proved, I could not reſiſt ſhortly running over the whole, in order to lay them in one view before your lordſhips and the jury.

And, from this view, I apprehend it will now appear, 1*mo*, That the friendſhip mentioned by the council for the priſoner, does not derogate from the probability of his guilt. It is a natural, and even a neceſſary link of the chain upon which the whole depends.

2*do*, It muſt occur to every one who hears theſe facts, that tho' it is poſſible, barely poſſible, that ſeveral of them might have happened, tho' the priſoner had been innocent of the crime that is charged upon him; yet it is impoſſible to conceive,

ceive, that ſuch a long ſeries of circumſtances, connected and correſponding with one another, all concurring to anſwer the ſame end, ſhould be the mere effect of chance, and not the conſequence of intention and deſign.

To take an inſtance, it is very eaſy to believe, that Allan Breck might have changed his cloaths, tho' he had not intended to murder Glenure; and that he might have lodged for ſome nights near Glenure's houſe, tho' he had not intended to lie in wait for his life: but when we find the ſame Allan Breck himſelf threatning to murder Glenure, and inſtigating others to do it; afterwards changing his cloaths, lying in wait at different times, and in ſecret places, appearing and *anxiouſly inquiring* for Glenure near the time and place of the murder, and, as ſoon as it was committed, flying with terror and precipitation; who can doubt that he was the murderer?

In the ſame manner it may be well ſuppoſed, that the priſoner might have lent Allan Breck a ſuit of cloaths, or given him entertainment in his houſe, tho' he had not inſtigated him to commit the murder. But if it is conſidered, that Allan Breck had no quarrel with Glenure, other than what he was engaged in by the influence and authority of the priſoner; that he carried the reſentment, on the priſoner's account, to ſuch a height as to threaten to ſhoot Glenure, and joined the priſoner in prompting others to do it; that when Glenure returned unexpectedly from Edinburgh, Allan Breck went immediately with the intelligence to the priſoner; that when he ſet out to lie in wait for Glenure, it was after a conſultation with

with, and being accoutred, for that purpoſe, by the priſoner; that the gun with which he ſhot Glenure, appears to have been the property of the priſoner; that, after the murder was committed, the murderer relied for money and cloaths for his eſcape, and actually did receive them from the priſoner; I ſay, let all theſe concurring circumſtances be laid together, and who will doubt that he was inſtigated, aided and abetted by the priſoner?

It is therefore in vain to urge, that one or more of theſe facts, when taken ſeparately, are not relevant to infer the concluſion of his guilt. It is from the connexion and concurrence of the whole, that the conviction of his guilt does ariſe: and it is only from a proof of the whole, that the proſecutors expect a judgment againſt him.

In the *laſt* place, the council for the priſoner have urged a point of law in his defence, *viz.* That ſuppoſing the facts which have been ſet forth, to be relevant to infer his guilt; as he is only charged as an acceſſary, he cannot be brought to trial for the crime, until the principal be firſt convicted. In ſupporting of this, texts have been quoted from the old law-books, *Quoniam Attachiamenta* and *Regiam Majeſtatem*. It has been ſaid that this is the law of England at this day, and that Sir Geo. Macken. in his treatiſe of crimes, has laid it down to be the law of this country.

As the word *acceſſary* is a relative, which cannot be without a principal to which it relates: it muſt be admitted, that no evidence will be ſufficient to convict an acceſſary, which does not prove that the crime was committed by the principal, who

is

is thereby convicted, to the effect that juſtice may be executed againſt the acceſſary.

In this ſenſe the maxim is juſt; but in the ſenſe in which it is pleaded for the priſoner, I will take upon me to ſay, it is not ſupported by the law of this country: it is inconſiſtent with the principles of public policy, and ſubverſive of all civil ſociety.

It is indeed a maxim, and a good one, in the law of Scotland, That no perſon can be condemned, ſo as to ſuffer the puniſhment appointed by law for any crime, unleſs he be preſent in court, and have opportunity to object to the evidence by which it is to be proved againſt him. But in the preſent caſe, it is not alledged, that Allan Breck could be condemned, and brought to juſtice, upon the evidence that is to be brought in his abſence againſt the priſoner. If he ſhall afterwards appear, and ſtand his trial, the proof in ſo far as it relates to him, muſt again be repeated in his preſence, and it will be competent to him to object to every part of it. But at preſent, as the evidence is brought only to the effect that the priſoner may be puniſhed, it is he only that can plead the benefit of this maxim, and it is competent to him to object, as well to that part of the evidence, which fixes the crime upon the principal, as to that which proves his acceſſion.

As to the law of England, I will not take upon me to argue from it; I do not pretend to be verſant in it; nor do I apprehend it will be deciſive in this caſe. Nevertheleſs I have reaſon to believe, that it is the practice in that part of

the kingdom to proceed to the trial of the acceſſary, after the outlawry of the principal; from which I would infer, that, in our practice, either the fugitation has the effect of the outlawry, or there is no argument to be drawn from the one law to the other.

With regard to the old law-books mentioned, it is well known to your lordſhips, that they are generally believed to have been tranſcribed from the laws of England, at a time, indeed, when many ſalutary alterations are thought to have been introduced into our practice from thence; but that it is by no means admitted, that they were ever ingroſſed into the body of our laws, or that every part of them has been confirmed by our practice, many inſtances of the contrary might be mentioned. But I forbear to conſume the time of the court upon this queſtion, becauſe the only ground I can find to ſuſpect, that it ever was held to be a doubt in our practice, is the 153 act, 12. parl. Ja. VI. which appears to have been made with a view to take away all doubt for the future. The words of this ſtatute are, *That, in all time cumming, all criminal libeles ſall conteine, that perſones compleined on are airt and pairt of the crimes libelled; quhilk ſall be relevant to accuſe them thereof; ſwa that na exception or objection take awaie that part of the libell in time cumming.* Which, in more modern language, imports, that, for the future, no objection ſhall be ſuſtained againſt a libel, which charges the perſon accuſed of being contriver, adviſer, aiding, abetting or aſſiſting, in a crime that is otherwiſe relevant.

And Sir Geo. Macken. in that very paſſage of

his treatiſe on crimes, which has been quoted in behalf of the priſoner, tho' he lays down the arguments which have been ſuggeſted on both ſides by the authors who have treated this queſtion, he concludes with obſerving, that, in Robertſon's caſe, the court found upon this act, that an accomplice might be tried, tho' the principal had not been convicted nor fugitated.

Upon theſe principles, the practice has been uniform for many years; and the preſent circumſtances of the caſe do not ſeem to afford any reaſon to deviate from it. For your lordſhips and the jury muſt be convinced, from the facts which have been opened, that as the murder was committed with the advice, and at the inſtigation of the priſoner; ſo, but for his aiding, abetting and aſſiſting, the murderer had been now alſo priſoner at your bar.

Lord *ADVOCATE.*

My Lord Juſtice General.

I Stand up at this time, to ſupport the reply that hath been made by the learned and ingenious gentlemen on the ſame ſide with me, to the defences that have been offered for this pannel; but, as it hath not been frequently practiſed by my predeceſſors in office to attend in perſon at circuit courts of juſticiary, I beg leave, firſt of all, to ſay a few words for myſelf, to give the reaſon of my being now here: and I am perſuaded that every one who now hears me, will believe me, when I declare, that, negatively, that hath not proceeded from any particular animoſity againſt this unhappy man in the pannal, whom I never ſaw until this day when he appeared there; neither is it ſingly becauſe it is a horrid and atrocious murder that is to be now tried; or that the trial is to proceed upon indirect and circumſtantial evidence, becauſe ſuch caſes have often occurred. But the truth is, that, upon my firſt hearing of this murder, in the month of May laſt, of a gentleman of this country, the King's factor upon certain of the forfeited eſtates that had been but a few weeks before annexed to the crown unalienably, and the produce of them appropriated by law to the moſt ſalutary and beneficial purpoſes, for the future tranquillity of the united kingdom in general, and for the immediate advantage and improvement of theſe highland parts of Scotland in particular; I was greatly ſhock'd, and conſidered the murderers, whoever they were, as having been guilty not only of

of a moſt horrid crime againſt the laws of God and humanity, but, together with this, of a moſt audacious inſult againſt the moſt gracious and beneficent acts of the King's government, and of the whole legiſlature; and as far as in them lay, had endeavoured to make the world or the public believe that the civilizing of the highlands of Scotland was a vain and impracticable attempt; and, under this impreſſion, I then reſolved, whenever a diſcovery ſhould be made of any perſons concerned in this wickedneſs, to attend at the trial wherever it ſhould be, and to do all that in me lay conſiſtently with law and juſtice, to convince the diſaffected part of the highlands of Scotland, that they muſt *ſubmit* to this government, which they have ſeveral times in vain endeavoured to *ſubvert*.

And now, as to this trial itſelf, your lordſhips have heard the libel read, and ſome parts of the evidence which we expect to bring in ſupport of it, more particularly opened by the gentlemen who ſpoke of the ſame ſide with me; and none of theſe things ſhall I now repeat; but only make a few obſervations upon what hath been offered by the council for the pannel by way of defence.

And, firſt of all, in order to lay out of the caſe what is foreign to the merits of the trial, the pannel's council have been pleaſed to take notice of certain hardſhips, or grievances, that he has lien under, during his confinement in the garriſon of Fort-William; and that, by the precaution of the private proſecutor, all the old experienced council have been retained from giving

him their aſſiſtance. As to the former of which ſuppoſed grievances, I am truly ignorant of the particular facts upon which the complaint is founded; but if it be true, that the pannel was longer kept in cloſe confinement than he ſhould have been, or until the commanding officer was informed how the law ſtood, the pannel can be under no real diſadvantage on that account in his preſent trial; becauſe he was firſt taken into cuſtody on Saturday the 16th May, that is, about four months ago: and ſuppoſing it true, that, for ſome few days of ſo long a period, people had not acceſs to him whom he had a-mind to ſee, he has had full time, when all theſe are deducted, to make the neceſſary proviſion for his defence.

As for the other alledged grievance, I myſelf know certainly the foundation of that; and ſo far is true, that after I had expected, for ſome time, to receive from the ſheriff-depute of this county the reſult of his inquiries concerning the murder of Glenure, and the examinations he had taken on that ſubject; theſe were, at length, brought to me at Edinburgh by certain of the family of the deceas'd, who had taken upon them, as it was very juſt and natural, to be managers and conductors of the inquiry, and to cauſe to be brought before the ſheriff to be examined, all perſons who, according to their information, could give any light in the affair; and, with the examination ſo taken, they brought along with them to me three learned council, which was alſo very reaſonable and uſual, and, as in all other caſes, was to myſelf moſt acceptable,

that

that we might jointly conſult and deliberate, whe
ther from theſe examinations, and the diſco
veries thereby made, there was matter ſufficie
for bringing this pannel to trial; upon which qu
ſtion we all agreed in the affirmative: but the
three gentlemen, tho' very able in their profeſ
on, were not all the experienced council. An
as it is my conſtant wiſh to ſee every pannel
ably defended as his cauſe will bear, it is wi
pleaſure that I now ſee this pannel attended
four of my brethren, who I am ſure will on
nothing material for his ſervice.

Upon the cauſe itſelf, there is, in reality,
place for a debate on the relevancy of the libe
nor does there appear to me to be any differen
betwixt us concerning the interlocutor that
deſire or expect to receive from your lordſhip
for the gentlemen of council for the pannel ha
admitted the atrocity of the crime charged up
him as ſtrongly as I am able to expreſs it: a
they farther admitted, as they muſt have do
that the charging the pannel as being guilty,
art and part of that crime, is relevant to in
the concluſion, and neceſſarily requires his be
remitted to the knowledge of an aſſize, whet
he is ſo guilty or not.

And, on the other hand, I readily admit
them, that the laudable and juſt practice of t
court, of later years, hath been, not to find
determine a particular relevancy upon certain fa
or circumſtances ſet forth in the ſubſumption,
minor propoſition of the libel, which is inde
in ſome meaſure, to pre-occupy the province
the jury, who are the judges of the fact, and

ſo dangerous to the courſe of juſtice; becauſe, hen a number of facts and circumſtances were und jointly relevant to infer the pannel's guilt, the leaſt material of theſe ſhould not be pro- d, altho' a more pregnant circumſtance, that as not ſpecially libelled or expreſſed in the in- locutor, ſhould come out upon the evidence, the jury followed the directions of that inter- cutor, and adapted their verdict to it, the pan- l behoved to be acquitted, tho' in reality, and their opinion, he was guilty.

It was not, therefore, with intent that your lord- ps ſhould give your opinion upon the relevan- and ſufficiency of the facts and circumſtances forth in this libel, that theſe were ſo particu- ly there inſerted; but this was done agreeably ſome of the beſt precedents in the records of s court, for the furtherance of juſtice, both in pect of the proſecutors and of the pannel: for former, that as the evidence to be brought is cumſtantial, the jury may be the better enabled ponder the ſeveral circumſtances, and connect m together, and attend to the evidence that ll be brought for proof of them; and for the e of the pannel, that he, knowing the princi- facts that were to be proved in ſupport of the rge againſt him, might prepare the evidence his vindication, and for explaining thoſe ap- rances of guilt with which he was loaded, in beſt manner he ſhould be able.

Another thing concerning the interlocutor to pronounced by your lordſhips, in which I moſt dily agree with the pannel's council, is, that ſhould be allowed to prove the ſeveral facts al-

ledged

ledged for his defence, and every pertinent fact o
circumſtance that he, or his council think, ma
be available for proving his innocence.

And thus far we ſeem to be agreed on the term
of the interlocutor, if the trial is at all to proceed
againſt which one previous objection hath be
made, namely, That this pannel, who is only ſa
to be charged as acceſſary, cannot be tried befo
the principal, Allan Breck, be firſt diſcuſſed:
ſupport of which objection, they have alledg
certain paſſages in the old books of the law; a
Sir Geo. Macken. in his criminals, title *art a*
part, parag. 9.

But to this I anſwer, firſt of all, that Sir *Geo*
Mackenzie himſelf, in the paſſage referred to, fi
niſhes an anſwer to the objection; for, af
ſtating the queſtion, whether acceſſaries can be ſu
till the chief actors be firſt diſcuſſed, and quot
the paſſages in the *Regiam Majeſtatem*, and ot
old books that favour the negative, he adds a
ciſion of that queſtion in this court in theſe wor
" Notwithſtanding all which, Charles Robert
" being purſued as acceſſary to the caſting do
" of a houſe, which was libelled to have b
" caſt down by his ſons and ſervants at his co
" mand, the Juſtices found, that he might
" put to the knowledge of an inqueſt, altho'
" children and ſervants were not firſt diſcuſſ
" becauſe the act appointing a libel to be relev
" bearing art and part, did abrogate the foreſ
" 4th verſe, 26th chap. L. 4. R. M. ſince ſ
" as are purſued, as art and part, are all pri
" pals". This was the deciſion of the court
the reaſon of it, founded on the act 1592. c

53. which enacts, " That, in time coming, all criminal libels ſhall contain, that perſons complained on are *art and part* of the crimes libelled; which ſhall be relevant to accuſe them thereof; ſo that no exception or objection take away that part of the libel in time coming".

The author proceeds in the ſame paſſage to refute ſome part of the argument previous to this deciſion; and ſays, " That the advocate alledged, it were abſurd, that the King ſhould be prejudged by the abſence of the principal party; to which it was anſwered, that the King was not prejudged, ſeeing, if the principal party were diſcuſſed and denounced fugitive, the acceſſary might be proceeded againſt."

Now, this is what hath been done in the preſent caſe; Allan Breck Stewart hath been called upon to ſtand trial for his part in the ſame offence, and hath been denounced fugitive for not appearing to abide his trial; which is diſcuſſing him as far as the laws of this land admit of, when his perſon is not in cuſtody.

But further, it is to be obſerved, that Allan Breck is not charged in this libel with being the principal, and this pannel as only acceſſary to the murder of the deceas'd Glenure; they are both charged in the ſame words with being guilty, actors, or art and part of the ſaid heinous crime; that is, in the terms of the ſtatute of K. Ja. VI. juſt mentioned: and, tho' it be true, that, in the ſubſumption or recital of the facts, it is ſaid, that the actual murderer, or firing upon the deceas'd, was committed by Allan Breck, it is alſo ſaid, that this was done in revenge of the quarrel which this pannel took

up againſt the deceas'd; and, in purſuance of a concert or conſpiracy betwixt the pannel and Allan Breck, to take away the life of Glenure; and ſuch being the caſe, they are in reality both principals. By the law itſelf (L. 15. *ad legem Corneliam de ſicariis*) *mandator cædis pro homicida habetur:* and the learned Matheus, *de criminibus*, in his *prolegomena*, c. 1. § 12. *qui mandant ſcelus, quique mandatum exequuntur, utrique rei ſunt, & ordinariæ quidem penæ ſubjugandi*; and, for proof of this brings many arguments and authorities; and, *inter alia, cum quis alicui mandat ſcelus, mandantem quidem caput eſſe; mandatarium vero manum, & inſtrumentum mandantis. Hinc ſacro quoque oraculo cædes Uriæ Davidi impingitur*; 2. Sam. xii. 9. in which text the words of Nathan the prophet to David are, *Thou haſt killed Uriah the Hittite with the ſword.*

And indeed it ſeems not to be agreeable to reaſon or natural juſtice, to hold, that, if this Allan Breck, for inſtance, the actual manſlayer in the preſent caſe, inſtead of making his eſcape beyond ſea, as probably he hath, had died a natural death, and ſo become out of the reach of all human laws before this trial could be brought on, and ſuppoſing the moſt direct and poſitive evidence could be brought, that Breck committed the murder libelled, by the council, command, or direction of this pannel, or as our old laws expreſs it *out-hounded* by him, that yet this pannel could not be brought to juſtice, becauſe truly, the author, he was not the very *actor cædis.*

But, that ſuch is not the law of Scotland at the

day, beſides the caſe mentioned by Sir George Mackenzie, I need only remind your lordſhips of the very laſt trial in the court of juſticiary at Edinburgh, of James Drummond Macgregor, for being guilty, or art and part of the crimes of hameſucken; forcible marriage, and rape: for all which the trial proceeded againſt him; and tho', in the crime of hameſucken, he and his accomplices might be all equally principals; yet, in the forcible marriage and rape, Robert his younger brother, to provide whom with a wife and a fortune that wickedneſs was committed, was no doubt the principal party and actor; and yet Robert had been no otherwiſe diſcuſſed than Allan Breck has been in the preſent caſe, that is, called upon to abide his trial for theſe offences, and pronounced a fugitive for not ſo doing.

As for the argument which the council for the pannel have chiefly inſiſted upon, and which they have profeſſedly, and I think not improperly, calculated for the jurors who now hear us, namely, to impugn the relevancy or ſufficiency of the ſeveral facts and circumſtances libelled to infer the pannel's being guilty, or art and part of the murder in queſtion; I do not chuſe at preſent to enter particularly into that argument, but to reſerve that till we come to ſum up the evidence to the jury, ſuch as it ſhall come out in their preſence; which may poſſibly, in ſome articles, be weaker, and, in others, ſtronger than what is ſet forth in the libel from the materials that we then had before us; but, in order to ſhorten our work at the end of a long trial, and to engage the attention of the jury to the evidence that ſhall be brought before them,

them, in ſupport of this libel, I beg leave now to make a general obſervation or two for their ſake.

It hath been admitted by the council for the pannel, that, even in the trial of crimes, circumſtantial evidence, when clear, is not only competent, but perhaps the moſt ſatisfying and convincing proof of any; and it was well ſaid, 'that 'circumſtances are inflexible proofs, that witneſſes 'may be miſtaken or corrupted; but things can be 'neither:' to which I will add, that the competency of ſuch evidence, for inferring the ordinary capital puniſhment for murder, was ſolemnly decided in the court of juſticiary at Edinburgh, in February 1718, in the trial of Stewart Abercrombie for the murder of Alexander Hay ſon to Mr Robert Hay of Naughton; in which the argument was treated with great learning, and full informations on the debate written by the now Lord preſident of the court of ſeſſion, who was the proſecutor, and by the now lord juſtice-clerk, who was of council for the pannel. And I mention that caſe which I have lately peruſed in the record to give your lordſhips and the jury a ſpecimen of a circumſtantial evidence of murder, that, in its general nature or complexion, was very ſimilar to the preſent: the caſe there, in ſhort, was that, ſome days before the murder, Mr. Hay the deceas'd, and Stewart Abercrombie the pannel had been in company, when Hay complained of an affront given him by Abercrombie; upon which nothing then enſued: but, juſt before the murder, which happened about nine at night of the 6th December 1717, Abercrombie was drinking in a tavern near the head of Black Friers wynd

wynd, when Mr. Hay came into the houſe, and ade one of the ſervants call him out into ano-er room; Abercrombie went to Hay, leaving s hat in the room where his company were; ey went out together near to a lamp, at the head the wynd, where a ſcuffle enſued betwixt them, ithout either of them drawing, tho' they had th ſwords; and, during this ſcuffle, Aber-ombie drew his ſword, and run Hay through e body, who was heard cry, he was murdered, d had got foul play, his ſword not having been awn; and ſoon after dropt down dead: Aber-ombie was ſtill without his hat, and was ſeen no perſon who knew him during the ſcuffle, ey only ſaw the man without the hat ſtab the her who had one; and, after he had given the ound, inſtead of returning to his company where had left his hat, called at another tavern, where borrowed a hat, and went directly to his own ouſe, and to bed, where he was, that ſame night, prehended.

In the libel againſt him, all the circumſtan-s are particularly ſet forth, and, in the infor-ation for the proſecutor, there is the following aſſage which I have extracted, and beg leave ere to read. "The pannel truſted to the dark-neſs of the night, and ſecreſy in which he had committed this crime, as ſufficient to cover him from the eye of juſtice, and prevent his pu-niſhment; but that ſame wiſe providence which ſometimes leaves men to execute their wicked deſigns in ſuch a manner, and under ſuch cir-cumſtances, as emboldens them to go on with hopes of impunity, frequently brings thoſe ve-

"ry

" ry crimes to light by a wonderful diſcovery
" unforeſeen incidents and circumſtances co
" curring to fix the guilt upon the criminal wi
" more force of conviction and ſtrength of e
" dence than two concurring witneſſes could gi
" on purpoſe to convince the world how li
" darkneſs or ſecreſy are to be relied on, eith
" as covers or encouragements to wickedneſs.
" Such is the caſe of this pannel; had it
" been by the ſmall chance of his leaving his
" in the room with the company where he w
" when he came forth to perpetrate this crime,
" might have gone off undiſcovered.—But t
" ſmall accident, firſt indeed taken notice of b
" child, who obſerved the hat in the cellar, a
" knew it to be Mr. Abercrombie's, led thoſe co
" cerned to a full diſcovery of ſuch other conc
" ring circumſtances, as ſuppoſing no poſitive pr
" of the fact ſhould appear, are more than ſu
" cient to condemn the pannel in the eyes of
" very judge and jury, and of every perſon
" who will lay himſelf open to receive impr
" ſions from truth."

The jury in his caſe were of that diſpoſitio
he was convicted of the murder, and ſuffe
for it.

Another remarkable inſtance of this natu
was the caſe of Alexander Maccowan, who
tried by two of your lordſhips here preſent,
the circuit held at Perth in May 1750, for
moſt horrid murder of Margaret Maclean, a
of Margaret his own child by her, an infant
about three or four years of age, committed
Auguſt 1749, not far from Crief, in the ſh

Perth, in a thicket of wood, where he left
eir bodies, after having carried away the mo-
y and cloaths which the ſaid Margaret had a-
ng with her in a bundle. Before the bodies
ere diſcovered, they were ſo mangled, that they
uld not be known, otherwiſe than by the
aths which were on the body of the woman,
hich her relations could ſwear to; the evidence
ainſt the pannel was wholly circumſtantial,
d conſiſted chiefly of there being found in his
ſſeſſion after the murder, a pair of ſtockings,
innen ſhirt, and a muſlin ſtock, that were pro-
d to have been in poſſeſſion of the deceas'd
hen ſhe ſet out for Edinburgh, where ſhe
d told her relations, ſhe had been invited by
e pannel to go along with him, in order to
ir being married together; and, upon this e-
dence, he was convicted of this double murder
d robbery; and, upon your lordſhips ſentence,
ffered the puniſhment that he ſo well deſerved.
My Lords, it appears to me, that the preſent
e affords a freſh inſtance ſimilar to theſe I have
ntioned, of a providential diſcovery of circum-
nces, ſerving to fix the guilt of acceſſion to this
rder upon the now pannel, notwithſtanding all
precautions by him uſed to conceal it; his en-
ty againſt Glenure, for removing him from his
n poſſeſſion in May 1751, and diſcontinuing to
ploy him in the management of the Ardſhiel
ate, was well known, as likewiſe the various
orts he made to prevent the removing of cer-
n tenants of Ardſhiel in the month of May
; and alſo his intimacy and cloſe connexion
h Allan Breck Stewart, who diſappeared ab-
ruptly

ruptly immediately after the murder, and t
whom the voice of the whole country imput
the actual murder itſelf: but as, when that ha
pened, this pannel was at his own houſe, at t
diſtance of one mile from the place of t
murder, the more direct and immediate eviden
of his acceſſion to it was long concealed, his wi
and his daughter being examined upon oath b
fore the ſheriff-depute of this county, on the 2
and 25th of May laſt, touching what they kne
concerning the murder, depoſed, That Bre
Stewart left the pannel's houſe on the morni
of Tueſday the 13th of May, dreſſed in his Fren
cloaths, and that the pannel had no ſuch bla
or dark coloured ſhort coat, as Breck had tru
left his houſe dreſſed in for three quarters of
year before that time; but at length, above
month after this examination, namely, on t
30th of June laſt, Alexander Stewart the pac
man, being examined before the ſheriff-ſubſ
tute at Fort-William; and after being confront
with a friend of his own, to whom he had be
muttering ſome part of the truth, ſpoke out t
whole truth, as it is ſet forth in the libel; a
particularly, that from this very wife of the pa
nel he received, on the evening of Saturday t
16th, at the pannel's houſe, Allan Breck's Fren
cloaths to be carried to him at the place of his
treat, together with the five guineas, which t
pannel had been at great pains to ſcrape togeth
after ſending the packman expreſs, for that pu
poſe, to his friend William Stewart at Fort-W
liam, and which he ſent to Breck at the place
his retreat, with a declared intent to put him
conditi

condition to make his eſcape, for that he muſt be ſuſpected of the murder; this diſcovery was the firſt thread which the kindred of the deceas'd got hold of to lead them to a more full detection: and was afterwards confirmed by the examination of the bouman, who told the particulars in the libel recited, and about whoſe houſe the very cloaths were found, the property of the pannel, which Breck had brought from the pannel's, and left with the bouman.

And as for the importance of theſe particular diſcoveries, which the pannel's council have endeavoured to diminiſh in the manner that circumſtantial evidence is always impugned, by obſerving that each article taken by itſelf is inconcluſive; I may readily admit this, and yet, from the reſult of the whole circumſtances, there may be convincing and irreſiſtible evidence. And to mention, at preſent, only theſe two material ones, of the cloaths furniſhed, and the money ſent to Breck Stewart before and after the murder reſpectively; I do not ſay, that if a man lends his neighbour a coat, in which the borrower being preſſed, two or three days after commits a murder of a perſon who was his own enemy in time paſt, that this will afford any evidence of privity or acceſſion to that murder in the lender of the coat; neither do I ſay, that if a man's friend or relation has unfortunately committed a murder, and one ſhall aid him, by money, or otherwiſe, to make his eſcape, that this will render ſuch friend acceſſary to, or chargeable with the crime of murder, tho' he is doubtleſs guilty of an offence or miſdemeanor in its own kind;

but the force of theſe united circumſtances in the preſent caſe, with the others charged in the libel againſt this pannel, conſiſts in the connexion of the whole together; it was the pannel's proper quarrel that rendered the deceas'd obnoxious to Breck Stewart; the pannel had diſcovered and expreſſed his enmity againſt the deceas'd, and had uttered threatnings againſt his life; Breck Stewart, his intimate friend, was a fit inſtrument for ſuch wicked purpoſe; he had eſpouſed all the pannel's opinions and diſpoſitions towards Glenure; he was, himſelf, not in condition to remain in this country, and was already provided with the means of ſubſiſtance in foreign ſervice and to this man it was, in the very heat of a conteſt with the deceas'd about removing certain tenants which this pannel had put in, that he furniſhed the dreſs, and as we likewiſe believe the arms wherewith he perpetrated this foul murder; immediately after which he retires to a deſert place, not far off, there to wait for a ſupply of money that was to be ſent him and it is eſpecially to be remarked by your lordſhips, and the jury, that, as the libel bears, this place, Breck told the bouman, that he muſt go to Fort-William with a letter to William Stewart merchant there, who he ſaid would give him money upon receipt of the letter; and that William Stewart was another intimate friend of the pannel's, and the very perſon to whom, the day after the murder, the pannel ſent the packman expreſs to get five guineas for the uſe of Breck who was about to leave the country; this circumſtance affords a demonſtration of a conc

betw

betwixt the pannel and Breck before they laſt parted at the pannel's houſe on the Monday night or Tueſday morning preceding; after which the pannel allows he never ſaw Breck; for how otherwiſe could Breck have known, that, for ſuch a ſmall ſum as he wanted, the pannel was to have recourſe to this William Stewart who lived twenty miles diſtant from him; and *this circumſtance* ſerves to *connect* the *facts* which immediately *preceded* the murder, with thoſe which *immediately enſued* it.

But I am going too far at preſent, on the conſiderations that will be proper for the jury after the proof ſhall have been brought before them, and ſhall now conclude, hoping it will appear to your lordſhips that no ſufficient objection hath been offered on the part of the pannel, why his his trial ſhould not proceed, and that you will make ſuch interlocutor as, upon that ſuppoſition, the council on both ſides appear to be agreed in.

Mr.

Mr. *MILLER for the pannel.*

My Lord juſtice general.

I Appear as council for the priſoner at the bar; and, as I am ſenſible this trial muſt draw out to a very great length, and occaſion a great deal of neceſſary trouble to your lordſhips, and the jury, I ſhall endeavour, in what I am to offer, to avoid repetition; and I ſhall confine myſelf to ſuch obſervations as moſt affected my own mind upon reading the indictment, which is the only rule by which I can judge of their importance. And 2*dly*, I ſhall offer a few conſiderations by way of reply to what has been ſaid by my Lord advocate and his aſſiſtants, in ſupport of the indictment.

The priſoner is charged before your lordſhips as acceſſary, art and part of the murder of the late Mr. Campbell of Glenure, a crime of ſo foul and black a nature, and attended with ſuch particular circumſtances, as has not only juſtly excited the attention of the public, but alſo a more than ordinary keenneſs and ardour in the numerous friends and relations of the deceas'd, in carrying on this proſecution.

I would not chuſe to make any reflexions upon their conduct. I ſincerely ſympathize with them for their loſs, and feel the full force of their juſt revenge againſt the guilty perſon whoever he is. But, my Lord, in ſuch a caſe, the paſſion which we at firſt cheriſh, as juſt and honourable, may get the better of us; and if the reſtraints of reaſon and ſtrict honour are not applied,

ed, will inſenſibly riſe into rage, and precipi-
e us into meaſures inconſiſtent with law, and
dictates of cool humanity.

My Lord, it is in ſuch circumſtances as theſe,
even the innocent may ſometimes be brought
danger. And in ſuch circumſtances it be-
nes the duty, and an honourable part of the
y of one of my profeſſion to appear for the
uſed, to aſſiſt him in his juſt defence, and to
iate, by all the remedies which the law has
vided for the ſecurity of innocence, any diſ-
antage he may be brought under, by public
judice, or by the number, power, or ſuperior
reſs of his private proſecutors.

This conſideration determined me to appear in
trial, and to give my poor aſſiſtance in the
ence of the priſoner; to which I was further
mpted by my Lord advocate himſelf, who had
generoſity ſo far to intereſt himſelf for the
nel, as to recommend it to me, amongſt others,
ppear in his defence.

And firſt, I obſerve, that it is admitted by the
ecutors in their indictment, that the barba-
s murder therein charged was perpetrated by
perſon, to wit, by Allan Breck Stewart:
taking him to be the guilty perſon, his life is,
doubt, juſtly forfeited to public juſtice, tho'
he mean time he may have eſcaped from the
cution of the law. The firſt queſtion therefore
muſt naturally occur, is, what are the cir-
nſtances in this caſe, which ſhould lead your
ſhips or the jury to believe, that any other per-
than Allan Breck, and particularly the priſon-
er

er at the bar, was alſo guilty of this foul and d
teſtable murder.

It is a rule in philoſophy, in all our inquir
into natural cauſes and effects, to reſt ſatisfi
ſo ſoon as one cauſe or principle is diſcover
ſufficient for anſwering and ſolving all appear
ces in the effect. This rule, I am ſure, w
great propriety, may, and ought to be applied
any moral or judicial inquiry, ſuch as the preſe
If a crime is committed, there muſt, no dou
be a criminal; and if the crime itſelf, or the c
cumſtances which attended the commiſſion of
are of ſuch a nature, as muſt neceſſarily infer
aid and aſſiſtance of others towards the commi
on of it; as the appearances in ſuch caſe w
not be anſwered by the diſcovery of one gu
perſon, the mind will remain unſatisfied till f
ther diſcovery is made of the ſuppoſed partner
the crime.

But, my Lord, where the guilt of one w
account for the whole appearances, for ev
circumſtance connected with the crime, I app
hend it is a rule in morals, it is a rule in l
and in ſound reaſon, to preſume, that no ot
but that one perſon was concerned in the co
miſſion of the crime.

This preſumption is founded in the reſp
which we owe to human nature. For, my L
wicked and corrupted as mankind are, th
God, a murderer, a wilful deliberate murd
is ſtill a monſter in the ſpecies; and it is un
tiful in us, and againſt all the rules of right
ſon, to carry our ſuſpicions, far more our pr
dices, further than the *corpus delicti* and the
cumſta

mſtances attending it, do neceſſarily point out. From this conſideration, I hope, the priſoner mes to your lordſhips bar, attended and aided, t only by the general, legal preſumption of in-cence, but with this other more ſpecial pre-mption, that no other perſon was concerned in s horrid murder but that one perſon, whoever he s, who gave the fatal ſhot by which Glenure died. nd this preſumption, I flatter myſelf, will be eſent with your lordſhips, and in the mind of ery jury man, till contrary proof and evidence all beat it out: which we flatter ourſelves will ſo far from happening, that, on the contrary, in e courſe of the evidence, it will gather ſtrength, d at laſt terminate in that iſſue, which, from e holy providence of God, the innocent may ith confidence expect.

My Lord, it is not my intention to anticipate, or argue upon evidence which has not yet been ought: but, as my Lord advocate has ſet forth, his printed indictment, a variety of circum-nces, from which he would infer the priſoner's ceſſion to this murder; I muſt beg leave to ke notice of ſome of them, in order, if poſſible, diſpel that popular and illegal prejudice, which obſerve in moſt caſes, eſpecially in the more a-ocious crimes, does attend the unhappy perſon ho is brought to your lordſhips bar.

When the mind is enraged to a high degree, naturally ſeeks after, and is impatient to find, object for its reſentment. The priſoner firſt ccurs, and *there* we are too apt to fix our opi-on of guilt, and alongſt with it our reſentment;

eſpecially

eſpecially when our confidence in the public pro-
ſecutor is ſo great, as it juſtly is at preſent, in the
honourable gentleman who fills that office.

This, if I miſtake not, is the ſource of popu-
prejudice againſt the unhappy priſoner. All of
are ſubject to it, becauſe it ariſes from, or at leaſt
incident to human nature; but however innocent
it may be in the crowd that ſurrounds us, it
dangerous, it is criminal, if received and enter-
tained in the mind of a jury man. For their
ſakes therefore, I will beg leave to make a few
obſervations upon the facts charged in the indict-
ment, that ſo the jury, who for ſome time have
had the printed indictment in their hands, may
before they proceed to trial, be alſo poſſeſſed of
ſuch facts and obſervations for the pannel, as
will, if attended to, entirely take off the force of
the circumſtances which are charged againſt him.

And firſt, it will be obſerved, that the mur-
der is not ſaid to have been committed from ſud-
den paſſion, or *chaud mella*, as the law expreſſes
it, but to have been premeditated and reſolved
upon for ſome days before it was committed.
Now, to render malice of ſo high a nature, pro-
bable, ſome very ſtrong ground or cauſe ought
to have been aſſigned for it; and what cauſe is
here mentioned? Why, *1ſt*, becauſe Glenure
had accepted of a factory from the crown up-
on the forfeited eſtate of Ardſhiel. *2dly*, Becauſe
Glenure had removed the pannel from the farm
of Glenduror at Whitſunday, 1751. And *laſtly*,
Becauſe he was proceeding to remove certain

her of the tenants of Ardſhiel at the Whitſun-
ay 1752.

The firſt of theſe could not be the ground of
he reſentment which gave occaſion to the mur-
er; becauſe Glenure had been in that office for
ore than three years before the murder; during
he greateſt part of which time, the pannel and
e lived in friendſhip and intimacy together; as
ill be clearly proved by a long courſe of let-
rs which paſſed betwixt them. The pannel's
wn removal from Glenduror could as little be
he cauſe of ſuch prepenſe malice; for the re-
oval was voluntary, and the poſſeſſion yielded
the ſucceeding tenant, in conſequence of a
evious concert between the pannel and Glenure.
nd far leſs could the intended removal of the
her tenants at Whitſunday laſt, give occaſion
the conſpiracy and murder charged againſt the
nnel. Such deep reſentment could not have
iſen from ſo trifling a cauſe in the mind even
a wicked man, much leſs one of the pannel's
ſpoſition and character.

2*dly*, The circumſtance of Allan Breck's having
anged his cloaths at the pannel's houſe before
e murder, tho' it has been chiefly inſiſted on
r inferring the pannel's acceſſion to the murder,
equally inconcluſive. Allan Breck's ſituation
a deſerter from his Majeſty's ſervice, to the re-
ls, and afterwards to the ſervice of France,
ade it neceſſary, ſo often as he came into this
untry, to ſculk amongſt his friends, of which
e pannel unfortunately happened to be one. It
ill be proven, that for this purpoſe, he uſed to
y aſide his French dreſs, and borrow the dreſs

of the country, ſuch as is deſcribed in the in-
dictment, from any of his friends, where he hap-
pened to viſit or reſide; and that he had gone a-
bout from houſe to houſe, changing his dreſs i
this manner, ſince the beginning of March laſ
and particularly had been furniſhed with ſuc
change of dreſs at the pannel's houſe, about th
beginning of April, where he happened to b
for a night or two, in the courſe of his viſi
through the country.

My Lord, if theſe facts are proven, it is im
poſſible any weight can be laid upon the circum
ſtance of his having alſo changed his dreſs at th
pannel's houſe, upon the Monday and Tueſd
before the murder happened. If a diſguiſe h
been intended, would the pannel, who is admi
ted to be a man of more than ordinary diſcer
ment, have furniſhed his own cloaths, whi
were known to the whole neighbourhood, and
which, if the murderer was apprehended,
himſelf behoved infallibly to be diſcovere
would he have dreſſed up the aſſaſſin before h
numerous family and ſervants, in the very dr
which was to ſerve for his diſguiſe, two differe
days before the plot was to be executed?
would he have allowed him to traverſe the cou
try for ſome miles round, from Tueſday, wh
he left the pannel's, till Thurſday when the mu
der was committed, in the very dreſs which w
intended to diſguiſe and conceal him? ſuch a co
duct is unaccountable, and cannot be aſcribed
the pannel, whom the proſecutors themſelves
preſent as a man of the deepeſt deſign and artifi

M

My Lord, the next material circumſtance in he indictment, which I would beg leave to take otice of for the ſake of the jury, is the corre-pondence which paſſed betwixt the pannel and llan Breck the ſuppos'd murderer, after his re-eat to Koaliſnacoan.

This circumſtance, I own, at firſt ſight, ſeems carry great weight againſt the pannel, becauſe imports not only aid and aſſiſtance given by the annel to the ſuppoſed murderer in order to en-ble him to make his eſcape, but alſo a previous nowledge of the place to which he retired im-ediately after committing the murder. But ur lordſhips and the jury have heard how the force this circumſtance is taken off. The pannel knew thing of the place of Allan Breck's retreat till the y after the murder, when he received a meſſage m him by Donald Stewart, giving him notice the place to which he had retired, and beſeech-g the pannel to ſend him a ſmall ſupply of mo-y, in order to carry him off the country. This eſſage the pannel has undertaken, and hopes to ve by a train of unqueſtionable evidence; and he ſhall be able to bring a ſatisfying proof of fact, it will at once ſtrip the indictment of the y circumſtance in it which points at a previous ſpiracy betwixt the pannel and Allan Breck ſuppoſed murderer.

And indeed, my Lord, independent of the of which is propoſed to be brought by the pan-, it cannot but appear unaccountable to your lord-ps and the jury, that a perſon of the pannel's ſa-ity, if he had been in concert with Allan Breck

for

for ſeveral days, before the commiſſion of the murder, ſhould not have provided the neceſſary means of Breck's eſcape, till after the crime was committed, when he could no longer correſpond with him, without the interpoſition of others, and conſequently without the hazard of diſcovery. The pannel could have had no difficulty to have furniſhed Allan Breck with a little money before the commiſſion of the murder, in order to make his eſcape immediately. He knew Breck's circumſtances, and that he had nothing to carry him off the country, and Breck would not have engaged in ſuch a ſervice without receiving from his employer the neceſſary ſupplies for his own ſafety; and ſuppoſing the pannel had not been in caſh upon the Monday, when they laſt parted, yet he would have taken care, before the Friday, to have been ſufficiently provided for anſwering Breck's demands. And yet upon the Friday after the murder, when the meſſage came from Breck, we find from the indictment, that the pannel was obliged to ſend in to Fort-William at a conſiderable diſtance from his own houſe, in order to borrow the trifle of money which was wanted, and ſent the day following to Allan Breck.

How far the pannel was to blame in ſending money to Allan Breck, who was his relation and had been his ward, in order to enable him to make his eſcape, depends upon the opinion he then had of his being guilty or innocent of the murder. If he believed him guilty, it was no doubt a very great crime in the eye of law; but ſuch aſſiſtance furniſhed for the eſcape of a murderer, tho' know-

ing

ngly, will not, in law, or in the nature of the hing, infer acceſſion to the murder, unleſs it had een previouſly promiſed as an encouragement to he commiſſion of the murder, which, from what as been ſaid, appears could not have been the aſe.

With regard to the threatenings, which is the nly remaining branch of the indictment of any eight againſt the pannel, I could have wiſhed y Lord advocate had been ſo good, as to have ondeſcended upon the particular expreſſions, and pon the times and places when and where theſe ere uttered. As that is not done, is it impoſ- ble the pannel can make any other anſwer but a eneral denial of this part of the charge? And s he is conſcious he never entertained the bar- arous reſolution, he hopes, and is perſuaded, o proof will be brought of any expreſſion ut- ered by him, which could import a deliberate hreatening to take away the life of an innocent entleman.

My Lord, having touched upon a few of the oſt material circumſtances in the indictment, hich I thought material for the jury to have in heir view, in order to direct their attention, du- ing the courſe of the evidence, to the plan of he pannel's defence, I ſhall next proceed to what t preſent falls more immediately under your ordſhips conſideration, and that is, the objection hich has been moved to the competency of this roſecution.

It has been objected, that the indictment does ot charge the pannel as a principal in the mur- er of Glenure, but only as a remote acceſſary,

by

by previous counſel, and ſubſequent aid and aſ
ſiſtance given to the murderer in his eſcape; an
that tho' ſuch acceſſary is equally criminal an
puniſhable with the principal, yet that he can
not be brought to trial, till the principal be fir
tried and convicted.

This objection was ſtated to your lordſhip
upon the authority of the old books of our law
of Sir George Mackenzie our only author upo
crimes, and of ſeveral of the foreign doctors wh
treat of this ſubject, and, with your lordſhip
permiſſion, I will read ſome of the paſſages up
on which the objection is founded, as I have ta
ken them down from the books.

Reg. Maj. lib. 4. *cap.* 26. *de ordine cognitio
nis in criminibus.*

*Si duo homines fuerint implacitati, unus de prin
cipali furto, et alter de præcepto, primò debet il
qui defamatur de facto, quam ille qui factum illu
committi præcepit, implacitari.*

To which the learned Sir John Skeene ſubjoin
the following annotation, *Complices criminis no
poſſunt accuſari ante principalem malefactorem, nam
ſicut remoto principali removetur acceſſorium, it
abſoluto malefactore abſolvuntur complices et conſenti
entes.*

Quoniam attachiamenta, cap. 83. *de receptatione
latrocinii.*

*Nullus defamatus tanquam receptator latrocini
debet puniri, antequam malefactor fuerit convictu
vel attayntus de latrocinio illo; et hinc fiet ut dicitur*
conſentientes et agentes pari pæna puniuntur.

Statuta Davidis 2*di, cap.* 19. *Complices non de
bent puniri ante principalem malefactorem.*

Ordi

To all

Ordinatum fuit coram rege in pleno parliamento quid Sconam per regem et communitatem regni, quod perſedendum eſt de receptatore alicujus maleſactoris judicandi ſive appellandi, quoſque receptatus judicetur. Et ſi receptatus quietus fuerit, receptator quietus ſit ſine aliqua alia aſſiſa. Si autem receptatus damnatus fuerit, receptator habet aſſiſam.

And, agreeable to the doctrine laid down in theſe old ſtatutes, Sir George Mackenzie in his Criminals, tit. *art and part*, § 9. gives it as his opinion, "That the chief actor muſt be firſt diſcuſſed, and either found guilty or aſſoilzied, before ſuch as are acceſſary can be purſued." Which he ſupports not only by the authority of the old books of our law, already quoted, but alſo of many of the foreign doctors.

'Tis true, he adds, that notwithſtanding what is there laid down, Charles Robertſon was tried before the Juſtices, as acceſſary to the caſting down a houſe, tho' his ſons and ſervants, who caſt down the ſame, eſcaped, and were not tried. But Sir George is far from approving of that deciſion, and urges many ſtrong reaſons againſt it, ſaid in ſupport of the doctrine he had formerly laid down.

The foreign doctors alſo have generally gone into this diſtinction, with reſpect to the order of trying the principal and acceſſary. I ſhall only note the words of Julius Clarus, *quæſt.* 90. *n.* 6. who lays it down as a rule, *Quando proceditur contra aliquem tanquam quod præſtiterit auxilium delicto, debet primo in proceſſu conſtare principalem delinquiſſe.*

To all theſe allow me to add the authority of the

the law of England, which, upon a point of th
nature, ſuppoſing it not fixed by any ſtatute
cuſtom of our own, will, no doubt, have grea
weight with your lordſhips than the opinions
any private lawyers.

Thus Sir Matthew Hales, in his pleas of t
crown, ch. 57. concerning the order of proce
ing againſt acceſſaries, lays down the followi
propoſitions, as fixed rules in the law of Englan

" The acceſſary may be indicted in the ſame
" dictment with the principal, and that is t
" beſt and moſt uſual way.

" The acceſſary ſhall not be conſtrained to a
" ſwer to his indictment, till the principal
" tried, unleſs he wave that benefit; in wh
" caſe, his acquital or conviction upon ſuch t
" is good. But it ſeems neceſſary in ſuch caſe
" reſpite judgment, till the principal be convic
" and attainted: for if the principal be afterwa
" acquitted, that conviction of the acceſſary
" annulled.

" If A be indicted as principal, and B as
" ceſſary, they may be both arraigned togeth
" and plead together, and tried by the ſame ju
" and the jury ſhall be charged firſt to inquire
" the principal; and if they find him not gui
" then to acquit the acceſſary; and if they f
" him guilty, then to inquire of the acceſſary.

The reaſon of this diſtinction in the orde
trying principals and acceſſaries, is very well
down by Sir George Mackenzie, in the plac
bove quoted, and will no doubt occur to y
lordſhips: for guilt in the acceſſary neceſſa
preſuppoſes, that the crime was committed

he principal, which can only be made appear by he trial and conviction of the principal. Neither it ſufficient to ſay, that, in the trial of the acceſary, ſuch evidence may be brought of the guilneſs of the principal, as would be ſufficient to onvict him, if he were preſent. For as no man an, by the law of Scotland, be convicted of any lony in abſence, it is impoſſible to ſay or determine from evidence, adduced in abſence of the ppoſed criminal, what would have been ſufcient to have convicted him, if he had been preent. He might have had defences againſt the dictment, objections againſt the witneſſes adced for the proſecutor, and witneſſes to adduce r his own exculpation, which the acceſſary doth ot know, or cannot prove.

The anſwers made by my Lord advocate to this reliminary objection to the order of the trial, ave been three. Firſt, That it is againſt the inreſt of ſociety, that crimes ſhould paſs unpuniſh; which often muſt be the caſe, if the eſcape death of the principal actor ſhall be underſtood be a perpetual bar to the trial and puniſhment thoſe, who are acceſſary, and no leſs guilty in e commiſſion of the crime. 2dly, That Allan reck Stewart hath been called upon to ſtand trial this crime, and hath been denounced a fugie and outlaw for not appearing to abide his trial, hich is diſcuſſing him, as far as the laws of the d admit. And, 3dly, That both Allan Breck d the pannel are charged by the indictment in e ſame words, as being guilty actors, or art and rt, of the ſame heinous crimes; which being in e preciſe terms of the act 151, parl. 12th of

James VI. nothing can be objected to the relevancy of that part of the libel.

To theſe I will offer but a word or two in reply. As to the firſt, founded upon the public expediency, and the dangerous conſequences which may reſult from this diſtinction in the order of trial of principals and acceſſaries; it is ſufficient for me to ſay, *Incommodum non ſolvit argumentum.* The law has been more anxious in providing for the defence and ſafety of the lives of the ſubjects, in the trial of crimes, than for the conviction and puniſhment of the guilty. And hence it has become an axiom in the law, Better that ten guilty perſons ſhould eſcape, than that one innocent perſon ſhould ſuffer.

To the ſecond, With regard to the fugitation of Allan Breck, I anſwer, That ſuch fugitation does not imply a conviction of the crime, which by the law of Scotland, can only proceed upon evidence brought againſt the criminal preſent in court upon his trial. An act of fugitation is no more than a judgment of the court, awarding the eſcheat of moveables againſt the defender, for his contempt, in not appearing to ſtand trial upon his indictment; and neither proceeds upon, nor implies the abſent perſon's guiltineſs of the crime charged againſt him. If he were preſent, his voluntary confeſſion would be no probation of his having committed the crime, ſo far as concerned the acceſſary; and far leſs can his abſence imply or amount to ſuch conviction. And this is agreeable to the opinion of Sir George Mackenzie and Julius Clarus, in the places above quoted.

As to the third anſwer to the objection, founded upon the ſtatute of James VI. it will occur to your lordſhips, as it did to Sir John Skeene and Sir George Mackenzie, who both wrote after the date of that act, That it could not be the intention of that law to aboliſh the diſtinction betwixt principals and acceſſaries, and the order of proceeding in their trials: all that was meant by that ſtatute was, to allow a defender, whether principal or acceſſary in a crime, to be charged under the general words of *art and part*, without obliging the proſecutor to condeſcend upon the whole particular acts from which the crime was to be inferred. But if a proſecutor, as in the preſent caſe, has brought a ſpecial indictment, charging a pannel, not as *actor cædis*, but as a remote acceſſary thereto, the general words of *art and part*, ſubjoined to the minor propoſition of the libel, can never be underſtood to imply a charge againſt the pannel, as principal actor, in contradiction to the ſpecial facts charged in the indictment, but only as acceſſary; and conſequently in the ſenſe of law, *actor*, *art and part* in the commiſſion of the crime.

What is laid down by the learned Sir Mathew Hales, in his fifty fifth chapter of principals and acceſſaries in felony, is applicable to the preſent ſubject. " In treaſon, ſays he, all are principals; " but yet, as to the courſe of proceeding, it hath " been, and indeed ought to be the courſe, that " theſe who did actually commit the very fact of " treaſon ſhould be firſt tried, before thoſe that " are principals in the ſecond degree; becauſe o- " therwiſe, this inconvenience might follow, that " the principals in the ſecond degree might be " convicted,

" convicted, and yet the principals in the firſt " degree might be acquitted, which would be " abſurd." And it is humbly thought, that this abſurdity would be much greater in the caſe of a remote acceſſary.

Nor does the deciſion in the caſe of James Drummond Macgregor apply to the point in hand; for, tho' the crime was, in that caſe, committed with a view to procure a marriage for Robert the younger brother; yet as James was preſent, and aiding and aſſiſting in the hame-ſucken and forcible abduction, conſequently he was a principal in the firſt degree, being an immediate actor in the whole crimes libelled; and, therefore, could not be intitled to plead the defence which has been offered for this pannel.

What we therefore humbly ſubmit to your lordſhips conſideration is, that tho' an acceſſary is equally guilty and puniſhable with the principal, yet, as the law hath laid down a certain order, in point of time as to the trials of principals and acceſſaries in crimes, and, as this order is not aboliſhed by the ſtatute of James VI.; therefore the trial of this pannel cannot proceed, until Allan Breck Stewart, the ſole actor in the commiſſion of the murder, is firſt tried and convicted.

But, if your lordſhips ſhall find reaſon for overruling this objection, the pannel hopes and expects, from your lordſhips juſtice, that he will be allowed, by the interlocutor, a proof, at large, of all facts and circumſtances that may tend to exculpate him from the charge exhibited againſt him in this indictment.

The

The Lords, upon hearing the criminal letters ad, and the debate thereupon, pronounced the llowing interlocutor.

" —The Lord juſtice general, and Lords commiſſioners of juſticiary, having conſidered the criminal libel, purſued at the inſtance of William Grant of Preſtongrange Eſq; his Majeſty's advocate, for his Majeſty's intereſt, and alſo at the inſtance of Janet Mackay, daughter to the honourable Hugh Mackay of Bighouſe Eſq; and relict of the deceas'd Colin Campbell of Glenure, for herſelf, and on behalf of Elizabeth and Lucy Campbells her infant children, with concourſe of his Majeſty's advocate, for his Majeſty's intereſt, againſt James Stewart pannel, with the foregoing debate thereupon, repel the objections to the libel, and find the libel relevant to infer the pains of law: That, time and place libelled, the deceas'd Colin Campbell of Glenure was murdered, and that the pannel James Stewart was guilty, actor, or art and part thereof; but allow the pannel to prove all facts and circumſtances that may tend to exculpate him; and remit the pannel, with the libel as found relevant, to the knowledge of an aſſize."

ARGYLL *I.P. D.*

Thereafter the Lords continued the diet againſt above James Stewart pannel till to-morrow rning at ſix o'clock preciſely, and ordained the ties, witneſſes, aſſizers, and others concerned,

to

to attend at that time, and the pannel to be carried back to priſon.

Curia itineris juſticiarii, S. D. N. Regis, tenta apud burgum de Inverarii, viceſimo ſecundo die menſis Septembris, anno Domini milleſimo ſeptingenteſimo quinquageſimo ſecundo, N. S. per nobilem et præpotentem Principem Archibaldum ducem Argyll, Dominum Juſticiarium Generalem, Patricium Grant de Elchies, armigerum, et Dominum Jacobum Ferguſon de Kilkerran, Dominos Commiſſionarios Juſticiarii dicti, S. D. N. Regis.

Curia legitimè affirmata.

Intrat. James Stewart pannel, indicted and accuſed as in the former ſederunt.

Thereafter the Lords proceeded to make choice of the following perſons, to paſs upon the aſſize of the ſaid James Stewart pannel.

Colin Campbell of Carwhin, Dougal Macdougal of Gallanah, Alexander Duncanſon of Kiles, Duncan Campbell of South-hall, Hector Macneil of Ardmeaniſh, James Campbell late bailie of Inverary, James Campbell of Raſhiel, James Campbell of Rudale, Colin Gilleſpie of Balimore, Colin Campbell of Skipniſh, Duncan Campbell of Glendaroul, Colin Campbell of Underline, Niel Campbell of Duntroon, Archibald Campbell of Dale in Craigniſh, Niel Campbell of Dunſtaffniſh.

The above aſſize all lawfully ſworn, and no objection to the contrary.

Thereafter the proſecutors for proving the criminal libel, called the witneſſes cited by them; and the pannel, for proving his defences, called the witneſſes cited by him; and the proſecutors cauſed to be read, in preſence of the jury, the writings produced by way of evidence for them; and the pannel's council cauſed to be read, in preſence of the jury, the writings produced for him; all which depoſitions and writings are inſerted in the appendix.

Then, the proof on both ſides being concluded, the Lord Elchies ſaid to the Lord advocate, that now was his time to proceed to give his charge to the jury; which his lordſhip did as follows.

LORD ADVOCATE.

Gentlemen of the jury,

IT now becomes my duty, to be aſſiſting to you in the diſcharge of yours, by ſtating to you this caſe, and ſumming up the evidence that hath been given in your preſence; which I ſhall now proceed to do as well as I am able, after ſo long attendance.

N. B. By the ſixteenth act anno 1672, concerning the regulation of judicatories, article tenth, on the juſticiary court, it is provided in theſe words. "That, in all criminal purſuits, the defender, or his advocate be always the laſt ſpeaker, except in caſes of treaſon or rebellion againſt the King.

That

That attendance, I am ſenſible, muſt ha
been very heavy upon you, and hath been ſuc
as the like hath not happened ſince the circu
courts of juſticiary were brought to be held
this county: but I hope you will not repine
the great fatigue of this trial, in a caſe, where
the importance is as unuſual as the length of i
and, in which, your giving a juſt verdict, w
be highly for the ſervice and credit of your cou
try.

I need not reſume to you, gentlemen, t
libel or indictment, whereof I preſume you ha
been furniſhed with printed copies before y
came here; that, being thereby informed of t
principal circumſtances which have been diſc
vered concerning the murder of Mr. Campbell
Glenure, you might have leiſure to weigh t
import of theſe, and be the better enabled to a
tend to the evidence that ſhould be brought b
fore you; and, on the other hand, the pann
James Stewart, who is now ſtanding his tri
was, by that libel, fairly informed of the prin
pal facts and circumſtances that were then diſc
vered againſt him, ſo as he might have opport
nity to account for theſe, and clear himſelf,
notwithſtanding ſuch ſtrong appearances, he w
truly innocent.

The crime itſelf, which gives occaſion to t
trial, was of its nature the moſt horrid and atr
cious that can well be conceived. Wilful mu
der, at any rate, is a crime moſt heinous; a
concerning the firſt murder, God Almighty hi
ſelf ſaid to Cain, *The voice of thy brother's bl
crieth unto me from the ground.* And the murd
n

ow in queſtion, as to this pannel's acceſſion to it, as one of the moſt cauſeleſs and unprovoked hat ever happened. Poor Mr. Campbell of Glenre was cut off in the vigour of his life, in the ery road of his duty in the King's ſervice, and or no other cauſe or provocation than his doing hat duty; and then was he baſely aſſaſſinated by ruffian, who lay in wait for him, and ſhot him om behind his back, ſo as he died upon the ſpot, aving two infant children, and his widow pre-nant.

And to this horrid violation of the laws of God nd of humanity, is to be added in the preſent ſe, that the ſole offence taken at Glenure, was s acting in the quality of factor on the forfeited tate of Ardſhiel, agreeably to his powers and ſtructions from the barons of exchequer, as be-g adminiſtrators for the King, whoſe property at eſtate was; and it was reſented as a capital jury, that the King's factor ſhould venture to ercise his Majeſty's property as freely, as every bject may do his own.

And laſt of all, That this murder was commit-d on the 14th day of May laſt, juſt ſeven weeks er his Majeſty had given his royal aſſent, and ſſed into a law, the bill for annexing this and her forfeited eſtates to the Crown unalienably, d for applying the rents and profits thereof for e better civilizing and improving the highlands Scotland.

The clemency of the King had been extended ly after the laſt rebellion, by the act of grace the 20th year of his reign, of which the pannel mes Stewart, among many others, had the be-

 nefit;

nefit; and other beneficial laws were then made to ſecure and promote freedom, property and good order in all parts of Scotland. And, to crown all, this laſt moſt beneficent act was made, for the more immediate benefit of the highlands of Scotland, out of which three rebellions have been raiſed, ſince the acceſſion of the royal family now happily reigning; an act of beneficence not to be parallelled in hiſtory, and calculated to render all the inhabitants of the highlands good and uſeful ſubjects under this government, by making them feel their own intereſt in being ſuch, and rendering the meaneſt of them, who will be honeſt and induſtrious, free and happy; and at ſuch a juncture, the murder you are now inquiring into received no ſmall aggravation, as it was flying in the face of the legiſlature itſelf, and endeavouring, as much as in theſe criminals lay, to defeat or discourage the proſecution of a meaſure of government, ſo highly gracious and beneficial to the country.

The truth is, gentlemen, that tho', God be praiſed, the highlands of Scotland are in this age leſs barbarous than they have been in former times; yet, in our own time, there have been ſuch inſtances of remaining barbariſm, as ſerve to prove but too ſtrongly, that theſe countries ſtand yet in need of being better civilized. I think it was in the year 1724, that, for an offence of the ſame nature with what was here taken, an attempt to remove certain Macphersons living on the eſtate of the duke of Gordon in Badenoch, the late Gordon of Glenbucket, his factor or tackſman, was invaded, and received ma

many wounds, given with intent to bereave him of his life, tho' he chanced to recover.

You muſt all remember, how baſely captain Monro of Culcairn was aſſaſſinated, by lying in wait, when he was acting in his duty in the King's ſervice, ſoon after the defeat of the late rebellion.

And you muſt have all heard of the late barbarous enterprize of Robert Macgregor and his accomplices, in carrying off from her own houſe the unfortunate Jean Kay, a young widow and an heireſs, in the depth of winter, and middle of the night, into remote parts of the highlands, and cauſing her to be married to that Robert, a perſon of no fortune, and an outlaw for murder: for being a conductor in which attempt, James Drummond, alias Macgregor, a brother of Robert, has been lately convicted.

The excuſe offered for James Macgregor, was the ſame miſtaken principle that appears to have miſled the unhappy priſoner at the bar. It was ſaid, that James Macgregor was actuated by one of the beſt affections; he was ſeeking no perſonal advantage to himſelf by that enterprize, but only to make the fortune of Robert his brother.

And the now pannel James Stewart conceived immortal enmity againſt Mr. Campbell of Glenure, for diſabling him to provide for the children of his brother, Charles Stewart late of Ardſhiel, attainted, by contributions levied from the tenants of that eſtate, who had been under his influence. But alas! what a deluſion is it, from ſuch principle to be led to commit or juſtify the moſt heinous and abominable crimes: the care of the intereſt

tereſt of one's kindred is doubtleſs a laudable af-
fection; and even when that good will is extended
to the remoter degrees, and enlarges the circle o
benevolence, there is no harm in it; provided i
both caſes it be conducted with juſtice, and me
exert themſelves to ſerve their friends, withou
violating the rights of other individuals, or th
laws of ſociety and civil government; but he wh
robs or defrauds his neighbour, to provide for hi
own houſhold, or the immediate children of hi
own body, is not the leſs criminal in the ſight o
God and man, that he was moved by an affection
in itſelf natural and juſt, but which he purſued i
a wicked manner.

And, in the preſent caſe of the murder of Glen
ure, there appears to have been no reaſonable o
probable ſcheme of advantage to the family of th
late Ardſhiel, or any body; but that it proceede
from mere wickedneſs, malice and reſentment, th
moſt groundleſs that ever was: it affords a rece
and ſhameful inſtance of that ſpirit of reveng
which was the characteriſtic of the barbaro
highlanders in former times; and a pity it i
gentlemen, and a reproach to the preſent ag
that it ſhould be yet capable of furniſhing ſuch a
example.

I am far from meaning by this, that the crim
of a few wicked perſons can juſtly bring a gener
imputation on the whole country where the
were committed; we daily hear of moſt horr
and unnatural crimes perpetrated in the parts
the kingdom the moſt wealthy, populous an
civilized; but the part incumbent on the count
where ſuch things happen, is, to purify the lan

f the innocent blood with which it is polluted, y bringing the guilty to condign puniſhment; nd this is what you are now employed in; and s you have attended to the evidence patiently, I efire nothing more, than, as an impartial and in- elligent jury, you may conſider it carefully, in or- er to diſcern the truth, and then to follow that eſolutely according to the conviction of your own inds; which, if it lead you to believe the pannel uilty, you will do juſtice to your country by ſay- g ſo; and, if you are not convinced of his guilt, God's name, let him be acquitted; for better at this murder, atrocious and ſcandalous as it is, ould go altogether unpuniſhed, than that one nocent man ſhould ſuffer for it.

In order to lay before you diſtinctly the evi- nce that you have heard of this pannel's ac- ſſion to the murder of Glenure, I ſhall *firſt* of recite the ſtate or ſituation in which the deceas'd d the pannel ſtood towards each other, previous to e murder, and alſo that of Allan Breck Stewart reſpect of both the others. 2*dly*, I ſhall point t to you the evidence that Allan Breck was the tual murderer, which I admit to be a fact that s incumbent on us to prove, in order to convict is pannel of wilful acceſſion to it: and, *laſtly*, I all ſum up the evidence that has been brought that acceſſion, and examine the force of the fences or excuſes which the pannel has endea- ured to prove.

As to the firſt of theſe, the ſituation of the pan- l himſelf; That, gentlemen, you partly know, d have heard proved: he is a baſtard brother of harles Stewart late of Ardſhiel, attainted, who,

out

out of his own tenants, and thoſe of Doug Stewart of Appin, his chieftain, levied a regimen or battalion, at the head of which he went int the late rebellion, accompanied, among other by this pannel, who had the benefit of his Ma jeſty's act of grace or indemnity; whereby he wa left at liberty to remain with his family in the coun try, whilſt Ardſhiel himſelf, the attainted perſon made his eſcape into foreign parts, leaving a home his wife and a family of children, who, a Mr. Campbell of Airds has depoſed, were a young, his eldeſt ſon being now, as he thinks, a bout eighteen years of age, and conſequently, a the breaking out of the late rebellion, muſt hav been about eleven.

The late rebellion, as you all know, was fina ly ſuppreſſed by his royal highneſs the Duke, i the ſpring and ſummer 1746: in the year follow ing, the act veſting the forfeited eſtates in the Kin was paſſed; and, in 1748, the lands of Ardſhie among others, were ſurveyed by order of the ba rons of exchequer; to the property whereof claim was entered on behalf of Alexander, the e deſt ſon of Charles Stewart the attainted perſon which claim, upon anſwers made for the King was diſmiſſed by the court of ſeſſion: and thus happened, that there was no factor appointed b the barons on the eſtate of Ardſhiel, until Col Campbell of Glenure was made factor, by com miſſion, bearing date the 23d February 174 upon that eſtate, and alſo upon the neigbourin lands of Allan Cameron of Callart, attainted, and adjoining to theſe, that part of the eſtate of Lo chi

hiel which lies in the ſhire of Inverneſs, to the outhward of Fort-William, and betwixt that fort nd the ferry of Ballachelish, of which you have eard ſo much, upon that loch or arm of the ſea hich ſeparates Lochaber in Inverneſsſhire, from he country or diſtrict of Appin in this ſhire.

Now, as this factory was granted full three years fter the rebellion, it is to be obſerved how the e-ate of Ardſhiel was poſſeſſed and managed in this in-rval; and this appears by the oath of Alexander tewart of Innernahyle, who hath depoſed, "That, before the factory, as he believes, the tenants paid their rents to the lady of Ardſhiel, and that ſhe again employed the pannel to deal with them."

It was during this period, that the pannel, as he ſame Alexander Stewart depoſes, who had een, a great many years ago, tenant to his bro-her Ardſhiel in the farm of Glenduror, and had een removed alſo, ſeveral years ago, by his bro-her, again took poſſeſſion of the ſame farm; nd that Ardſhiel's lady and the pannel, jointly, troduced certain new tenants of their own choice, to different parcels of the land, which Ardſhiel, e attainted perſon, had himſelf occupied before e rebellion.

Again, when Glenure had obtained this factory, fter he had been for ſome time abroad with the giment to which he belonged, in Flanders; and ing now come home, was occupied with the eaty for his marriage with the young lady, who now his widow; he did, as Mr. Campbell of irds hath depoſed, for ſome time, employ the w pannel, as his ſub-factor, in levying the rents Ardſhiel, and ſetting the lands; and, to the

ſame

ſame purpoſe, the ſaid Alexander Stewart depoſes
" That the factor gave the pannel the opportu-
" nity of having the greateſt influence with the
" tenants of Ardſhiel, more than any other perſon
" by allowing the pannel to let the lands, which
" he continued doing to Whitſunday 1751, if no
" at that time alſo: but adds, that the pannel's
" connexion with the family of Ardſhiel, gave
" him alſo *a natural influence* over the tenants
" even before Glenure's factory."

The uſe which the pannel made of this influ-
ence, natural or acquired, appears partly from the
evidence of the ſame two gentlemen: for, upon
this article, Mr. Campbell of Airds hath depoſed
" That the pannel told him, that whatever was
" made of theſe rents, over what was paid in to
" the exchequer, was accounted for to the chil-
" dren of Ardſhiel; and, when he removed from
" Glenduror, he told the deponent, that he had
" reaſon to believe, that the ſaid *excreſcence* of the
" rents would ſtill be accounted for to them; and
" in that caſe, he would be eaſy as to his own
" removal."

And Mr. Stewart of Innernahyle depoſes upon
this article, " That the pannel was again removed
" by the deceas'd Glenure the factor from the
" farm of Glenduror at Whitſunday 1751, and
" the lands let to Mr. Campbell of Ballieveolan;
" that as the pannel is the deponent's near neigh-
" bour, the deponent had frequent opportunities
" of converſing with him touching his ſaid re-
" moval: that the pannel did not expect to have
" been removed, and ſeemed diſſatisfied that he
" was; and ſaid, he believed, that Glenure would

" n

not have removed him, if (Mr. Campbell of) Ballieveolan had not ſought thoſe lands from him: that the pannel further ſaid, that the tenants generally allowed ſome *gratuity* to Ardſhiel's children, and that theſe lands were the beſt farms on the eſtate, and moſt of the benefits accreſced from them; and tho' he himſelf could be provided of a farm elſewhere, yet the children would be deprived of that benefit."

In what manner this removal of the pannel, om this beneficial farm of Glenduror, to which e had laſt entered ſince the rebellion, without y lawful title whatever, was brought about, apears from the inſtructions to Glenure from the rons of exchequer produced, and proved before u; the laſt of which is in theſe words: "You are, on no condition whatever, to let a farm to any of the friends (*i. e.* the relations) of the forfeiting perſon." And tho' it be true, that theſe ſtructions bear date the 25th July 1751, about o months after the actual removal of the pannel om Glenduror, theſe were nevertheleſs the true uſe of that removal; for it was known or exſted by the factor, that he would receive ſuch ſtructions, there having been notice given to e Lords commiſſioners of the treaſury, of a conderable poſſeſſion of the eſtate of Lochiel having en let to, or for the uſe of one of the brothers the attainted perſon; upon which their lordips had directed the barons of the exchequer to ovide againſt the like being done for the future, order to avoid the occaſions of continuing that ading or influence over the vulgar inhabiting

thoſe eſtates, that had produced ſo much diſtur-
bance and miſchief to the public.

And thus it was thro' neceſſity, and in order t
the faithful diſcharge of the duty of his office
that Mr. Campbell of Glenure, at Whitſunday
or in May 1751, removed the pannel from h
poſſeſſion of the farm of Glenduror, to the conti-
nuance whereof he had no legal title or clai
whatſoever; and alſo reſolved to employ the pan
nel no longer as his ſubfactor or aſſiſtant, in ma
naging the eſtate of Ardſhiel.

It is not eaſy to conceive, that there was an
reaſon or juſt cauſe given by this conduct of Glen
ure, for reſentment or hatred from this panne
even if it had been true, which the pannel expre
ſed to Stewart of Innernahyle, that as he believe
Glenure would not have removed himſelf, if Ba
lieveolan had not ſought or ſolicited this poſſeſſio
of Glenduror from him; and yet that the pann
conceived and expreſſed, and proſecuted ſuch di
poſition in the moſt outrageous manner, hath bee
now fully proved before you. But, before I men
tion the particular evidence of this, I muſt pro
ceed to recite the freſh cauſe of difference betwi
theſe perſons, and of animoſity conceived by th
pannel, from the after-proceedings of Glenure
the ſpring of this preſent year; when he havi
taken the reſolution to remove a few of thoſe t
nants, who had been introduced to their poſſe
ſions, as I have mentioned, by Ardſhiel's lady a
this pannel, in the interval betwixt the rebelli
and the date of the factory, it appears, that th
pannel being apprehenſive, that this would leſſe
his intereſt and influence among the people, if
ſhou

ſhould not be able to protect thoſe perſons in the poſſeſſions, which he himſelf had beſtowed or procured, took the reſolution to oppoſe theſe removings; which he proſecuted, by repreſenting and complaining of it in the country as a mighty act of oppreſſion, becauſe the King's factor thought fit to remove four or five tenants lately introduced upon this eſtate, who had neither ſtanding leaſes nor old poſſeſſions, to intitle them in point of right, or in point of favour, to be continued; and this groundleſs oppoſition to thoſe removings the panel ſet about and conducted at his own expence, and gave himſelf great agitation and trouble in the proſecution of it, having gone to Edinburgh in April laſt, on purpoſe to preſent the bill of ſuſpenſion of thoſe removings, which you have heard, letting forth moſt frivolous grounds; and all this without the knowledge, application or contribution for the expence by the tenants themſelves, in whoſe names he took upon him to offer that bill of ſuſpenſion, until he had obtained at Edinburgh an order upon the bill from the Lord Dun ordinary, that anſwers ſhould be put in to the ſame, and ſiſting or ſtaying execution in the *interim*; with which iſt, and certain advices he had received at Edinburgh, for making application for thoſe tenants to the barons of exchequer, when they would meet in the beginning of June, the panel returned to his own houſe on the 27th April; and then ſent for thoſe tenants, and gave them notice of his proceedings at Edinburgh on their account; and that if they had a mind to continue their poſſeſſions, they were adviſed to go to Glenſe, and ſeek their poſſeſſions (or demand ſuch continuance);

continuance); and if he did not grant their desire they should send for a notary, and go with him to protest against Glenure; and if they pleased, he would send for a notary, to which they agreed and accordingly the pannel sent for Charles Stewart, who hath been examined on this fact, and sent him along with the tenants to Glenure's house where he intimated the sist, and took a protest against him on the 1st May last.

It was upon receiving this notice of a suspension presented, and a sist granted, that Glenure repaired to Edinburgh, and put in his answer to the bill; upon consideration of which, the bill was refused or dismissed by the Lord Haining ordinary; and then Glenure returned to his own house on Saturday the 9th May last, in order to take the necessary measures for executing the removings that had been thus opposed.

This part of the pannel's proceedings is proved by the oath of Charles Stewart his notary, by the pannel's own examinations, which you have heard read, and by Duncan Maccoll in Ardshiel, one of those tenants, who hath now deposed, "That "upon himself and others being warned to re- "move from the lands of Ardshiel, as at Whit- "sunday last, he for his part had no intention "other than to submit to the warning, till a pa- "per was procured from Edinburgh, which he "heard read by Charles Stewart notary at Ar- "charn, as on a day he was there, being along "with his neighbours advertised to meet there, "where he and his neighbours were told by the "pannel and Charles Stewart the notary, that "the paper brought from Edinburgh, contain-

"advi-

" advice for thoſe who had been warned to re-
" move, to continue in their poſſeſſions; and that
" they ſhould go to Glenure, and aſk the ſame
" from him. And depoſes, that he gave no al-
" lowance or mandate to the pannel to make any
" application at Edinburgh againſt the removing:
" that, before he heard any thing of this paper
" from Edinburgh, he had engaged to ſerve as
" *bouman* to the tenants Glenure was to introduce;
" but, that on hearing of this paper, he prefer-
" red keeping by his neighbours, as he conſidered
" the being continued in his poſſeſſion, did the
" law ſupport him in it, as more beneficial to
" him: and adds, that the procuring the paper
" at Edinburgh coſt him no money."

To the ſame purpoſe, John Maccombich, an-
ther of thoſe tenants in Ardſhiel, hath depoſed,
nd adds this farther circumſtance, " That as to
his agreeing with the incoming tenants to be
their *bouman*, he heard both Glenure and theſe
tenants ſay, that it was by Glenure's advice that
this was done;" which is by the way an in-
ance of the humanity, with which Glenure acted
n this occaſion, in being at pains to provide
ead for thoſe perſons whom he did not think fit
continue as tenants on this eſtate of Ardſhiel,
here they had been ſo lately introduced by the
nnel.

Theſe then were all the cauſes of offence, that,
ter the ſtricteſt inquiry, can be diſcovered to
ve been ever given by Glenure to this pannel,
mely, that Glenure, as factor upon this eſtate
Ardſhiel, removed the pannel himſelf from the
m or poſſeſſion of Glenduror at Whitſunday
laſt

laſt year, and gave over employing or entruſting the pannel to act under him in the management of the lands of Ardſhiel; and that he was taking meaſures for removing the few tenants lately introduced by the pannel, at Whitſunday this year which meaſure he perſiſted in, the oppoſition that the pannel was pleas'd to make, notwithſtanding. Very ſtrange cauſes, it muſt be confeſſed, for the pannel's conceiving a violent, and even a mortal enmity againſt Glenure! and yet nothing is more certain, than that violent offence may be taken where no juſt, or even plauſible cauſe for it hath been given: and, from the firſt murder recorded in ſacred hiſtory, down to this now in queſtion, often hath it happened, that wicked men have hated their brothers without a cauſe, that is without a reaſon or juſt cauſe, tho' there was always an occaſion, or a motive, ſuch as it was for that hatred being conceived.

Again it is to be conſidered, that occaſions of offence operate differently according to the education, temper and character of the party who meet with them; and we have now heard from the evidence, in this trial, what a wrong way of thinking this unfortunate pannel is poſſeſſed of, holding it to be a cauſe of mortal enmity that a man ſhould be removed by another from his farm or poſſeſſion which he hath no manner of title to hold or retain; which is a prejudice or deluſion that, in a lower degree, prevails elſewhere, but ſeems to be in a particular manner prevalent in the highlands, and was the cauſe of the attempt made by the Macphersons to aſſaſſinate Glenbucket ſome yea

ears ago, as well as the cauſe of the horrid mur-
er into which you are now inquiring."

And, for one proof that this pannel is deeply
oiſoned with this moſt erroneous opinion, you
eard, gentlemen, a little while ago the objection
at was by him made to Alexander Stewart ſe-
ior in Lagnahaw, one of the witneſſes in the liſt
rved upon him, and called up to give evidence
ainſt him, to whom the pannel objected, that
is witneſs bore enmity againſt him; for that the
itneſs was formerly in poſſeſſion of the lands of
ucharn which the pannel now holds under Mr.
ampbell of Airds; and that the pannel had cau-
d the witneſs to be removed from that poſſeſſion
d ſucceeded him in it: an objection in itſelf
ufficient in point of law, which cannot
ppoſe men to be ſo wicked as to entertain mor-
l enmity for ſuch a cauſe; and therefore as you
ard it was over-ruled by the court, notwith-
anding which we freely paſſed from the wit-
ſs, being ſatisfied that we had evidence enough
ſides, and unwilling to leave any room for the
nnel to complain, or for you, gentlemen of the
y, to apprehend that any one witneſs was uſed
ainſt him, of whoſe credibility there could be
e ſmalleſt ſuſpicion; but the very moving of ſuch
jection on the part of the pannel, affords one
oof of his own ſenſe of the nature and degree of
ch offence.

Another ſignal proof of this appears from the
th of Ewan Macintyre, late herd in Glenduror
ho hath depoſed, "That he engaged to be herd
to Mr. Campbell of Ballieveolan in the farm of
Glenduror, for the year 1751; and that, the
"day

" day after he entered into his ſervice there, th
" pannel challenged him for accepting there
" of, and told him, that he would be *fit-fide*
" with him ſooner or later for doing it; and that
" if he did not meet with reſentment himſelf i
" his lifetime, others, ſuch as his friends, migh
" meet with it after his death." And adde
" That he himſelf was never in the pannel's ſer
" vice." This was ſurely carrying this deluſio
to a moſt extravagant pitch, and ſuch as, to an
ſtranger to this odd way of thinking, muſt hav
appeared incredible, till he heard the proof of
fact which demonſtrates, how deeply that opinio
is rooted in the mind of this pannel.

And, accordingly, we have heard how that w
farther diſplayed by his words and by his actio
on other occaſions, in reſpect of the deceas
Glenure, for the cauſes of offence I ha
mentioned, by the evidence I ſhall now poi
out.

And firſt of all, John Breck Maccoll, the bo
man to Appin (who, tho' he lives in a defa
appeared, to me, to have given his evidence in
moſt natural ingenuous manner; and, by his ow
words and behaviour related in it, diſcovers a d
gree of ſagacity which, in a perſon of his ſitu
tion, ſurpriſed me; and), upon the article I a
now ſpeaking of, he depoſes, " That, in a co
verſation the deponent had with the pann
" as the deponent beſt remembers, about tw
" years ago, (whether he was herein accurate
the chronology, is not eſſential to the queſtion
iſſue) " mention being made of Glenure's bei
" about to take on himſelf the management
" t

« the eſtate of Ardſhiel from the ſaid pannel,
« and thereby diſable the pannel from being of
« any ſervice to Ardſhiel's children, he heard the
« pannel ſay, he would be willing to ſpend a
« ſhot upon Glenure, tho' he went upon his
« knees to his window to fire it: and farther
« depoſes, That he heard a *waif* (that is a flying
« or uncertain rumour or) report in the country,
« that Ardſhiel (the attainted perſon) had ſent
« home a meſſage, that he believed all his
« friends were dead, when Glenure was allowed
« to go on at the rate he did."

Again, another remarkable converſation of the pannel's, in the ſame ſpirit, but carried a good deal farther, is proved to have happened about Chriſtmaſs laſt 1751, within the pannel's own brew-houſe at Aucharn, betwixt him and three of his own ſervants, who all concur in proving it, namely John More Maccol, Dougal Maccol and John Beg Maccol; of whom the firſt hath depoſed, " That he was preſent at a converſation that happened betwixt the pannel, John Beg and Dougal Maccols, both ſervants to the pannel, in his brew-houſe at Aucharn, before day-light, upon a morning about Yule (or Chriſtmaſs) laſt, as the deponent beſt remembers: that the deponent was then employed in diſtilling the ſecond draught of a brewing of aquavitæ, and the pannel ordered the deponent to give him, and people preſent, a dram; which the deponent did: that the pannel ſaid, Glenure would not take the rent from the tenants of Aucharn, part of the Ardſhiel eſtate, becauſe they had given the pannel ſome barley, which Glenure

" alledged they ought to have paid him: that the
" pannel complained, it was hard to refuſe the
" rent in money from the tenants in a ſcarce
" year; and obſerved, that it would be of no
" great conſequence to him, the pannel, tho' he
" ſhould pay back the barley, in compariſon of
" what it would be to the tenants for ſubſequent
" years, in caſe they were obliged to pay their
" farm, bear and meal" (*to-wit in kind according to their leaſes*) " and ſaid the tenants or common-
" ers were likely to be very ill off; for, if Glen-
" ure went on in the way he then did, it was
" likely he would be laird of Appin in a very
" ſhort time; and *that he knew once a ſet* of com-
" moners in Appin, who would not allow Glen-
" ure to go on at ſuch a rate: to which the de-
" ponent and the reſt anſwered, that they knew
" no commoners in the country who could ſtrive
" or contend with Glenure in that manner.

This converſation in the brew-houſe is further proved or explained by the other two ſervants preſent: and John Beg Maccoll adds this circumſtance, " That after he and Dugald Maccoll
" went out of the brew-houſe, either that day, or
" ſometime thereafter, they talked together what
" the import of this converſation might be; and that
" the deponent was at a loſs, whether to conſider
" it as an encouragement *to deſtroy Glenure*, or
" as a complaint againſt the commoners of Ap-
" pin, as not being ſo *faithful to the pannel*, as he
" expected them to be."

It muſt be left to your conſideration, gentlemen, whether this John Beg Maccoll was not in the right in his conjecture; and that this converſation

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can receive no other conſtruction, than that the pannel took that occaſion to inſtigate theſe ſervants of his own, who were all of one tribe, to reſent againſt Glenure the ſuppoſed injuries to the common people of that country, which the pannel had thus repreſented and exaggerated to them; or at leaſt to feel their pulſes, and try how they would reliſh ſuch a propoſal or inſinuation.

But farther ſtill, the pannel continued to diſcover the rancour with which his own heart was filled againſt Glenure; the next inſtance of which that hath appeared upon the evidence, happened in April laſt, when he was on his road to Edinburgh, with intent to offer a bill of ſuſpenſion of the removing of the tenants that hath been mentioned: and here three circumſtances are proved by the teſtimonies of Alexander Campbell and Ewan Murray, two of his landlords or innkeepers by the way, and Colin Maclaren merchant in Stirling, who fell into company with the pannel at both theſe houſes, and travelled in the pannel's company ſome miles on the road towards Stirling.

Alexander Campbell in Teynaluib hath depoſed, That in April laſt, the pannel called at the deponent's houſe in the morning, to have his horſe corned; and having called for, and got a dram, which was afterwards ſet down upon the table, one Maclaren a merchant in Stirling, who had lodged with the deponent the night before, being preſent, aſked the pannel, if he would not help the deponent to a dram? and the pannel anſwered, he did not know any thing that he would help the deponent, or any of his name to, if it was not to the gibbet: and after

" ſome

" ſome farther converſation, the deponent ſaid,
" that Glenure, as he ſuppoſed, was the perſon
" of the (deponent's) name, with whom the pan-
" nel had the greateſt quarrel; and the deponent
" did not know any good cauſe the pannel had for
" it. To which the pannel anſwered, That if
" Glenure had uſed the deponent as ill as he had
" uſed him (the pannel), by turning him out of
" his poſſeſſion, he would have no leſs quarrel
" with him than he had. And, upon the pannel's
" interrogatories, the witneſs added, That at that
" time he thought what the pannel ſaid proceeded
" from malice, and that the pannel was then per-
" fectly ſober."

This converſation was confirmed by Colin Maclaren the merchant, who had lodged in that houſe all night, who adds, " That the pan-
" nel then ſaid (ſpeaking of the Campbells) that
" he did not chuſe to be an executioner, but he
" could draw down ſome of their feet;— and that
" at firſt, during this converſation in Campbell's
" houſe, he thought that the pannel had been in
" joke, but afterwards it was like to become ve-
" ry ſerious; for the landlord and he came to
" pretty high words together."

The next landlord, Ewan Murray, at the weſt end of Lochern, hath depoſed, " That in April
" laſt, the pannel, and Colin Maclaren merchant
" in Stirling, came to the deponent's houſe, and
" the pannel told the deponent, that Glenure had
" warned away ſeveral families in Ardſhiel's eſtate
" to remove; and that he was informed, that
" none of the factors on the forfeited eſtates had
" power to remove the tenants; and that he was
" goin

going to Edinburgh to take advice of lawyers about it; and if he had not that power, that the pannel would apply for ſuſpenſion in his own name, and in name of the reſt of the tenants: and the converſation turning upon an officer in the army that was branded with cowardice, and had been broke on that account, the pannel ſaid, that he had reaſon to ſay, that Glenure was as great a coward as that officer; for that he, the pannel, had challenged him to fight him, which Glenure declined; and deſired the deponent to tell Glenure, that he had told him ſo: but the deponent anſwered, that he would not carry any ſuch meſſage from one gentleman to another: and from the converſation, the deponent underſtood, that the arms with which the pannel had challenged Glenure to fight, was with piſtols."

And it is true, gentlemen, that this witneſs ds, upon the pannel's interrogatory, " That he thought the pannel was a little concerned with drink; but if it was ſo, *tum veræ voces*."

This converſation is again confirmed by Mr. claren, the pannel's fellow-traveller, in both parts of it; who adds this circumſtance, that latter part of the converſation happened upon road after they left that houſe, and Murray landlord rode ſome part of the way along with m: and then Mr. Maclaren depoſes to a third verſation betwixt himſelf and the pannel, in ſe words, " That, after parting with Ewan Murray, in the courſe of their journey, the deponent found, *that the removing was much at the pannel's heart*, and the deponent endeavoured

" all

" all he could to divert the converſation to an
" other ſubject: that the pannel told him, that
" he failed in a ſuſpenſion at Edinburgh, h
" would carry it to the Britiſh parliament; and
" he failed there, told him, after a little pauſe, an
" with an emphaſis, that he behoved to take th
" *only other remedy* that remained."

Theſe laſt words, gentlemen, need no expl
nation; for ſurely, after the judgment of the *Br*
tiſh parliament, no other legal or lawful remed
could remain.

And, as to the condition of the pannel durin
theſe converſations, Mr. Maclaren farther d
poſes, " That he did not think the pannel drun
" either in Campbell's houſe, or in Ewan Mu
" ray's houſe; but, after leaving Murray's hou
" they drank two or three drams at a dram-hou
" and after that the deponent thought him muc
" concerned with liquor; and it was after takin
" theſe drams that the converſation between Mu
" ray and the pannel, with reſpect to challengi
" Glenure, happened, and that the deponent a
" the pannel had rode ſeveral miles together b
" fore the converſation about the *Britiſh* parli
" ment; and the deponent thought him even th
" ſtill concerned with drink": and very likely
was this that threw the pannel ſo much off his gua
as to ſpeak out, to his landlord and his fellow trav
ler, ſo much of what lay deeply at his own hea
and to tell upon himſelf this matter of fact abo
the challenge he had given Glenure to fight h
with piſtols.

Such appearing to have been the temper a
diſpoſition of the pannel towards Glenure in t
mo

onth of April laſt, and before that time; I ſhall xt point out to you, gentlemen, the evidence ncerning that of his friend Allan Breck, who mſelf does not appear ever to have had any ac- aintance of, or intercourſe with Glenure in his e, but, by the pannel's own ſhowing, was his nſman, and had been his ward or pupil; and, Breck's character, and his then ſituation, as ing engaged in foreign ſervice, and not at liber- to live openly in this kingdom for any long ne, tho' he went about among his highland ends without any ſcruple, he was a fitter in- ument of the vengeance meditated againſt Glen- e, than the Maccols the pannel's own ſer- nts, or any of the common people of Appin uld be.

And, concerning this Allan Breck, John Beg accol, one of the pannel's ſervants, hath depo- , "That, in March laſt, he came to the pan- nel's houſe, late in the evening, dreſſed in a blue coat, red waiſtcoat, black ſhag breeches, and a feathered hat," (that is in his *French* es, which the witneſſes call a ſide or long coat, oppoſition to the black ſhort coat with ſilver tons belonging to the pannel, which he was erwards ſeen in, and, upon this his firſt arrival, witneſs proceeds to depoſe,) "that he looked into he kitchen, and went immediately to the room where the pannel and his family were; that fterwards he uſed to go thro' the country o different places, and came frequently back o the pannel's houſe: that once he remained here a week, which was the longeſt time that e ſtaid there at one time."

Here

Here is then the intimacy ſtill ſubſiſting betwixt the pannel and Breck, that naturally arose from the acknowledged connexion betwixt them; the pannel's houſe was his head-quarters in the country of Appin, from whence he made his excurſions to viſit his other friends in thoſe parts; and during the pannel's abſence on his journey to Edinburgh, Breck went over to ſee his relations in Rannoch. And it hath appeared upon the evidence, how thoroughly Mr. Breck eſpouſed and entered into the notions and ſentiments of his old guardian and friend, the now pannel, with reſpect to Glenure.

And on this head Duncan Campbell changekeeper at Annat depoſes, "That, in the month "April laſt, the deponent met with Allan Breck "Stewart, with whom he was not before ac"quainted, and John Stewart of Auchnacoan, "the houſe of the walk-miller of Achoſrag "and went on with them to the houſe; th "Allan Breck ſaid, that he hated all the nam "of Campbell; and the deponent ſaid, he ha "no reaſon for doing ſo; but Allan ſaid, "had very good reaſon for it: that thereaft "they left that houſe; and, after drinking "dram at another houſe, came to the depo"nent's houſe, where they went in, drun "ſome drams, and Allan Breck renewed t "former converſation; and the deponent m "king the ſame anſwer, Allan ſaid, that if t "deponent had any reſpect for his friends, "would tell them, that if they offered to tu "out the poſſeſſors of Ardſhiel's eſtate, he wou "make *black cocks* of them before they enter

"in

" into poſſeſſion, by which the deponent under-
" ſtood ſhooting them, it being a common phraſe
" in the country:—that John Stewart ſaid he did
" not blame Glenure ſo much as Ballieveolan,
" for taking thoſe poſſeſſions, whereas Glenure
" was doing the King's ſervice: and Allan Breck
" replied, that beſides that, he had another ground
" of quarrel againſt Glenure, for writing to co-
" lonel Crawfurd, that he, Allan, was come
" home from France; but that he was too cun-
" ning for him; for that, when at Edinburgh, he
" had made up his peace with general Churchill,
" and had got his paſs, which he had in his poc-
" ket-book: that the deponent aſked a ſight of it;
" that he ſearched his pocket-book, but could
" not find it; upon which he tore a leaf out of
" the book, and ſaid, there it was. And de-
" poſes, that he ſaid twenty times over, he would
" be *fit-ſides* with Glenure where-ever he met
" him, and wanted nothing more, than to meet
" him at a convenient place."

This converſation is confirmed by Anne Mac-
ren, ſervant to the ſaid Duncan Campbell, who
epoſes, " That ſhe heard Allan Breck then ſay,
That he would *not ſhun Glenure*, where-ever
he met him; by which ſhe underſtood, that he
was to do hurt or harm to Glenure, where-ever
he ſaw him."

And it is farther confirmed by Angus Macdo-
ld, the walk-miller mentioned by Duncan
ampbell, and by Robert Stewart a fourth per-
n preſent in the company, who adds indeed,
at Allan Breck was much in drink at the time
uttering the above expreſſions; but they are

not the leſs to be regarded in this trial, when the *occaſion* of theſe *threats*, the *repetition* of them, and laſt of all, the fatal *execution* hath been at the ſame time proved before you.

Another like converſation of Allan Breck's was proved to have happened at the houſe of Malcolm Maccoll, change-keeper at Portnacroſh, by the landlord, and by Anne his wife, who depoſe, " That one morning in April laſt, Allan Breck " being in his houſe with John Stewart, John " Maccoll, then ſervant to the deponent, came " into the company in a ſhabby condition; that " Allan Breck aſked who he was? that the ſaid " John Stewart anſwered, that he was an honeſt " poor man, with a numerous family of ſmall " children, and that it would be great charity in " any body to aſſiſt him; upon which Allan " Breck deſired the ſaid John Stewart to give the " ſaid John Maccoll a ſtone of meal, and he " would pay for it, which the ſaid John Stewart " promiſed to do: that the ſaid Allan then gave " the ſaid John Maccoll a dram, and told him " if he would fetch him *the red fox's ſkin*, he " would give him what was much better.— And " depoſe, that they gave no great notice to the " expreſſions at the time; but, after they heard " of Glenure's murder, believed he meant Glen- " ure, as he was commonly called Colin Roy " which means red Colin in the country."

A third and very remarkable inſtance of Allan Breck's converſations on this ſubject, was one which he held with two of the pannel's ſervants above mentioned, Dugald and John More Mac colls, whereof the former depoſes, " That as he " an

" and John Maccoll were harrowing in a field " belonging to the pannel at Aucharn, being the " ſame day, or the day after the pannel went for " Edinburgh (that is, on the 3d or 4th of April), " Allan Breck Stewart walked for a good time a- " bout the field ; and as they were looſing their " horſes, the ſaid Allan Breck and they entered " into converſation about France, and people " from this country there ; and John More Mac- coll aſked, if there was any proſpect of any of them coming back? upon Allan Breck's an- ſwering, he was afraid they would not, John More ſaid, he wiſhed that none had ever come from that country ; in which the ſaid Allan joined him, ſaying, it had diſperſed the friends he moſt regarded; and (then added) that it was a particular misfortune, that the manage- ment of any concerns they left behind them, fell into the hands of one that was about to ſhow them no manner of favour; and declared, that he meant Glenure ; and told, that the commoners of Appin were little worth, when they did not take him out of the way before now ; and upon their ſaying, no body would run that riſk, not knowing who would ſtand by them, Allan Breck anſwered, that he knew how to convey out of the way any perſon that would do ſo, that he would never be catched ; and alſo ſaid, that they, and the tribe they were of " (mean- the Maccolls) " were not like to be the leaſt ſufferers by Glenure's proceedings."

John More Maccoll ſwears to the ſame conver- on at the *harrowing*, and depoſes, that Allan eck then ſaid " If they, the commoners of

" Appin,

" Appin, were worth themſelves, they could keep
" out Glenure, and hinder him from oppreſſing
" them; in which caſe they would not be ba-
" niſhed from their natural poſſeſſions; and, up-
" on the deponent's anſwering, he did not ſee how
" any body could pretend to ſtrive or ſtruggle with
" Glenure in that way, as he had the laws of the
" King and country for him, and no body to ſup-
" port or take them by the hand after their ſo do-
" ing; Allan ſaid, he had it in his power to ſave or
" protect any body that would put Glenure from
" trampling upon the country in the manner he
" then did."

Here then was *Allan Breck* the pupil, in ſpring laſt, a few weeks before the murder happened, ſpeaking the very *ſame language*, and uſing the *ſame arguments* with two of theſe Maccolls, the ſervants of the pannel, with which the pannel himſelf had been practiſing upon them in his own *brew-houſe* about *Chriſtmaſs laſt*; and this converſation of Breck's was not like the former, after drinking drams in change-houſes, but when he was ſober and cool, walking in the fields about the pannel's houſe which was in effect his home.

And, to the evidence on this article, may be added, what the pannel himſelf hath declared at his firſt examination before the ſheriff ſubſtitute, which hath been proved and read in your preſence, when, being interrogated, " If he had any conver-
" ſation with Allan Breck concerning Glenure
" anſwered, that the ſaid Allan aſked the decla-
" rant, if he heard that ſerjeant More (Cameron
" was come from France, or if he was in the
" country

'country of Appin? to which the declarant 'anſwered, that he did not hear he was in Ap-'pin, but he heard he was in Glenetive laſt year; 'whereupon the ſaid Allan told the declarant, 'that ſerjeant More ſwore, he would kill 'Glenure becauſe of the treatment he gave the 'tenants on the eſtate of Mamore, part of Lo-'chiel eſtate. Declared alſo, That the ſaid Allan 'Breck threatned that he would challenge Bal-'lieveolan and his ſons to fight, becauſe of his 'removing the declarant laſt year from Glendu-'ror, and being about to remove the other te-'nants this year from ſome other parts of the 'eſtate of Ardſhiel."

Now, as to the mention here made by the pannel of ſerjeant More Cameron, I ſhall hereafter have occaſion to take notice of the uſe the pannel made of it, but have here only to obſerve, that the *cauſes of offence*, for which the pannel ſays *Breck* threatned to fight *Ballieveolan*, were the very ſame which the pannel himſelf, as well as Breck, resented ſo highly againſt Glenure, namely, the removing the pannel himſelf from Glenduror the laſt year, and being about to remove other tenants of Ardſhiel this year; and tho' the pannel carefully avoids ſaying any thing of Breck's threatnings againſt Glenure, after he had been actually murdered, and had attempted to throw the ſuſpicion of that upon ſerjeant More; yet here, by the pannel's own ſhowing, Breck had entred thoroughly into *thoſe quarrels of his* for the *actual removal* of himſelf, and the *intended removal* of others, and threatned to challenge and fight Ballieveolan upon that account.

And

And as to the other ground of quarrel against Glenure, which Allan Breck mentions in one of the above converſations, namely, for his ſuppoſed writing to colonel Crawfurd, that he, Allan was come home from France, I ſhall not take upon me to explain, or to gueſs in what manner Allan Breck came to be poſſeſſed with ſuch a conceit, becauſe we have heard no evidence concerning the manner in which he received ſuch piece of falſe information or intelligence: for that it was falſe hath been fully proved before you. Firſt of all, colonel Crawfurd himſelf 'being aſked whether the deceaſed Colin Campbell of Glenure 'ever told him, that Allan Breck Stewart was 'deſerter, and in this country? hath anſwered 'upon oath, in the *negative*.'

And next, Mr. Campbell of Airds hath depoſed, "That, in Spring laſt, he had a letter from "colonel Crawfurd, telling him that he heard "Allan Breck Stewart was come to the country "and inliſting men for the French King's ſervice "and deſired the deponent to inquire if it was ſo "that the deponent did inquire, and wrote the "colonel for anſwer, that he heard he had been "in the country, but that he was then gone a "way: that this was in the month of April, to "the beſt of the deponent's remembrance, and "it ſeems about that time Allan Breck Stewart "had gone to Rannoch, which gave occaſion to "the deponent's being informed that he was gone "away, and did not hear of his having returned "to the country till after Glenure's murder; and "thinks he wrote alſo to colonel Crawfurd, ac "cording to the information he had got, that

"Allan

Allan Breck Stewart was in uſe of coming e- very year to the country ſince Ardſhiel went to France."

And Alexander Stewart of Innernahyle depo- , "That he remembers that Allan Breck Stewart came over to this country a year or two ago, and ſtaid ſome weeks among his friends; but neither at that time, nor the laſt time did he ſeem, ſo far as the deponent obſerved, to be in any apprehenſion of being taken; only, as he had been once in the army, he did not chuſe to meet with any of the King's troops."

And beſides all this, it hath appeared in the oof before you, that Breck Stewart remained in country, as uſual, a full month or more, af- he had mentioned the ſuppoſed notice given ncerning him by Glenure to colonel Crawfurd; d it hath not been proved, or even alledged, t in purſuance of that notice, whoever gave it, re was any ſearch made for Breck, or the ſmal- diſquiet given to him, or any alarm or pre- tions taken by him, till after the murder of nure; to ſay nothing therefore of the injuſtice that cauſe of offence, had it been true, that nure, a good ſubject to his Majeſty, formerly ilitary, and ſtill a civil officer in his ſervice, d given notice to the commanding officer in a ghbouring garriſon, of ſuch a perſon as Breck wart, a late rebel, a deſerter, or a French e- ſſary, poſſibly for raiſing recruits, being then ly come into that country; I have only to ob- e on this occaſion, that in fact it is incredible, t Breck Stewart himſelf, upon a bare ſurmiſe, ich was not true, that Glenure had given ſuch notice

notice to colonel Crawfurd, and upon which moleſtation followed to himſelf, ſhould have conceived or proſecuted a deadly hatred againſt Glenure; and therefore the true cauſe of that enmi muſt have been the other main quarrel or ca of offence, which was firſt taken up by the no pannel, and thereafter adopted and eſpouſed Breck in the manner that you have heard.

And, for the truth of this obſervation, we ha the authority of the pannel himſelf who had t beſt opportunity to be thoroughly acquainted wi Allan Breck's ſentiments; for, in the pannel's xamination that hath been read before you, ſays, " That how ſoon the declarant heard " Glenure's murder, it came into his mind, t " ſerjeant More had done it, becauſe Allan Bre " had told him, that the ſaid ſerjeant ſwore blo " dy revenge againſt Glenure, before the ſerje " came from France, upon account of Glenur " treatment of Lochiel's tenants, and his differ " with John Cameron of Faſifearn brother to L " chiel: that the declarant's reaſon for ſuſpect " Allan Breck afterwards was, becauſe he l " the country abruptly without taking leave " him as he expected; and, if the ſaid Allan w " guilty of the ſaid murder, he believes it b " hoved to be on account of the diſturban " given to the tenants of the eſtate of Ardſhi " *and he knows no other.*"

Thus, gentlemen, ſtands the evidence y have heard of the *cauſes of offence*, ſuch as th were, that were *taken* by the pannel and his frie Breck Stewart againſt the late Glenure, and the *manner* in which their *reſentment* againſt h

had been *expreſſed* and *diſplayed* in and before the month of *April* laſt, when the pannel went to Edinburgh to obtain a ſuſpenſion for ſtaying the removings. And we muſt now proceed to examine the evidence of the *ſequel* of theſe *animoſities* and *threatnings*, and of the *fatal execution* thereof by the *actual murder* of Glenure, upon the very eve of Whitſunday, or the 15th of May, when he was to have proceeded to the removing of the tenants of Ardſhiel, after he had, upon anſwers made, obtained the bill of ſuſpenſion offered by the pannel to be refuſed or diſmiſſed; whereby the pannel's *laſt effort*, to prevent thoſe removings, and to preſerve his own authority or influence with the tenants of *Ardſhiel*, had been fruſtrated.

On the 27th April laſt, by the pannel's own account, he returned to his own houſe from Edinburgh with the order he had obtained on his bill of ſuſpenſion, that the ſame ſhould be anſwered, and a ſiſt or ſtay of proceeding in the *interim*; ſoon after which, he called the tenants, and gave them notice what he had been doing for them, and ſent them with his notary to intimate the ſiſt to Glenure; which was accordingly done on the 1ſt of May, as Charles Stewart the notary hath depoſed.

On Saturday the 9th of May, Glenure returned to his own houſe from Edinburgh, whither he had gone to make an anſwer to that bill of ſuſpenſion that had been intimated to him; and, upon that anſwer, had got the ſame refuſed or diſmiſſed, and gave out, in his family, his reſolution, after repoſing himſelf that Sunday at

home, to ſet out on Monday the 11th for Fort-William, in order to ſettle the affairs of his factory on the Lochiel eſtate, and to return to Appin or Ardſhiel before the 15th.

At this time Allan Breck Stewart is proved to have been at the houſe of John Stewart of Faſnacloich, diſtant but one mile from Glenure's houſe, which, in that country, is near neighbourhood; and there, accompanied by Charles one of the pannel's ſons, where Allan Breck had oppo tunity to get intelligence of the motions of Glenure; which accordingly he received from his landlord John Stewart the elder of Faſnacloich, who hath depoſed, "That he told "Allan Breck, that Glenure was come from Edinburgh, with a warrant to remove the tenants "to which Allan Breck ſaid, that if there was "warrant, there was no more to be ſaid; but that "if he had no warrant, he would not be allowed "to remove them: and the witneſs adds, that "he heard, on Sunday the 10th of May, that "Glenure was going to Fort-William; and Allan Breck left his houſe about nine o'clock Monday morning."

This is confirmed by James Stewart the younger of Faſnacloich, who adds, "That Breck "was then in his French dreſs, and that when "he went away, on Monday the 11th about "nine in the morning, he told the family that he "was going to leave the country ſoon, but would "ſee them again at Faſnacloich before he went "away: and further ſays, that, on Sunday the "10th, he heard, being in company with Allan "Breck, that Glenure had got an order from Edinburgh

dinburgh to remove the tenants, and was gone to Fort-William."

From Faſnacloich, Allan Breck came directly he ſame day to the pannel's houſe at Aucharn, here, ſoon after, he *put off* his *French cloaths*, and *t on* the *black* or dark coloured *ſhort coat* belong- g to the *pannel* with ſilver buttons, with a bon- et and trowſers, being, as ſeveral of the pan- l's ſervants have depoſed, the ſecond time they er ſaw him in that dreſs; the only former time aving been, when Breck went in theſe cloaths r ſome days to Rannoch in April preceeding, hilſt the pannel was at Edinburgh.

And now the pannel himſelf hath declared, That he was informed on Monday the 11th of May, by his ſon Charles, Allan Breck and Faſnacloich's daughter, that they heard Glenure was to go to Lochaber that day; and that one or other of them told him, that Glenure was to remove the tenants of Ardſhiel."

By the communication of this intelligence, it peared, that the matter in diſpute was co- ing to a *criſis*; the laborious efforts made by the nnel, in going to Edinburgh, of his own ac- rd, to get a ſtop put to the removing, he now w were rendered ineffectual, by means of Glen- e's having gone thither after him: and it is pre- meable from the *facts* that *preceeded*, and that *llowed this day*, that this was the time when the nnel and Breck, at his own houſe, concerted, at Glenure ſhould be cut off by the hands of eck, upon his return from Fort-William into at country of Appin; and, as it appears from e evidence, that the pannel at this time was low

low in caſh, the facts that have been proved, ſerve to evince, or to render it farther preſumeable, that, at this time, it was *concerted*, betwixt the pannel and Breck, that the latter, as ſoon as his work was done, ſhould retire to the deſart of *Koaliſnacoan*, and there wait, till *either* the pannel *ſent* him a ſupply of *money* to carry him off, or cauſed the money to be *furniſhed* by his friend and correſpondent, *William Stewart* merchant in Maryburgh.

It is true, that, for ſome hours of this Monday the 11th, the pannel went from his own houſe upon a meſſage from Mr. Campbell of Airds; but he returned home in the evening; and in the *diſpoſition* that both *he and Breck Stewart* had long been in towards Glenure, which was now more *inflamed* by this *freſh intelligence* they had received that Glenure had got the better of them at law and was about to proceed in the removings, a very ſhort conſultation betwixt them might ſerve to make all *this concert*; the evidence of which ariſes from the *enſuing facts*, joined with thoſe *preceeding* this 11th of May.

For it hath been proved, that, on the morning of Tueſday the 12th, Allan Breck ſet out from the pannel's houſe, and dreſſed in his ſhort cloaths and went directly to the houſe belonging to Stewart of Ballacheliſh, adjoining to the ferry of the name, upon the road by which Glenure was to come from Fort-William into Appin; and there Breck met his friend Stewart the younger of Fasnacloich, who hath depoſed, "That he took notice to Allan Breck, that he had *changed* his *dreſs*, who anſwered, that he did it, becau-

"

the *day was warm:*" and adds, "That the deponent was informed at Ballacheliſh, in company with Allan Breck, that Glenure was gone to Fort-William."

The ſame day Allan Breck went, accompanied Faſnacloich the younger, to the houſe of Macnald of Glenco, where his mother-in-law, the nnel, and Ardſhiel's ſiſter alſo lived; and from ence, after ſtaying about an hour, went a-croſs e ferry to the houſe of Cameron of Callart, here another ſiſter of the pannel and of Ardſhiel es, and where he lodged all that night; and xt day, being Wedneſday the 13th, came back, er calling again by the way at Glenco's houſe of rnoch, to Ballacheliſh, where he remained the ght following.

And now, gentlemen, we are come to the faday, which was Thurſday the 14th of May t, of which, and the days immediately following, the various events and incidents that have en proved before you, merit your particular attntion, as I endeavour to put you in mind of em, as nearly as poſſible in their order.

On the morning of this Thurſday the 14th, aut 7 or 8, as John Beg Maccoll the pannel's vant hath depoſed, "the pannel ſent him off with a letter to Charles Stewart notary-public at Maryburgh, and told the deponent, that the letter was to make, or cauſe the ſaid Charles Stewart come to the country of Appin, to proteſt againſt Glenure, in caſe he had not a ſufficient warrant to remove the tenants of Ardſhiel; — and alſo told the deponent, he was to get ſome money from *William Stewart* mer-

"chant

" chant at Maryburgh, to pay for milk-cows th
" were bought for him in the country; and th
" if the money was not ſent, he would not g
" the cows; and that the pannel deſired th
" deponent *to make all poſſible diſpatch*: — that a
" cordingly he made all the diſpatch he could
" Fort-William, where he arrived about twel
" o'clock, delivered the pannel's letter to Wi
" liam Stewart merchant; who told him, th
" Charles Stewart the notary was not at hom
" but, that there was a notary along with Gle
" ure, who would ſerve the pannel as well
" Glenure; and further told the deponent, th
" he, the ſaid William, had wrote to the pannel
" the morning; that the ſaid William did n
" give him any money, but ſaid he would ſe
" ſervants for the cattle."

The reaſon why he got no money at this tim
is explained by William Stewart himſelf, w
depoſes, " That he gave no anſwer in writin
" and thinks he did not give any verbal anſwer,
" it was not, that he bid him tell his maſter, th
" he was not in caſh, which" (he ſays) " w
" the caſe."

The letter itſelf ſent from the pannel by t
witneſs, hath been produced, and proved bef
you; and the poſtſcript of it is in theſe wor
which I will now repeat, tho' they are inſerted in t
libel: " As I have no time to write to William,
" him *ſend down immediately* 8 *l. ſterling*, to pay f
" milk-cows I bought for his uſe at Ardſhiel."
The pannel muſt have had a very preſſing
for money, when he was thus urging the p
ment of the price before the buyer received

catt

attle; and let it be obſerved, that *this firſt ex-preſs* ſent with this *demand of money* from *William Stewart*, was diſpatched by the pannel on the *morning* of the day on which the murder hap-ened in the *evening*.

Again, you are here to obſerve the *connexion* twixt the pannel and this William Stewart at aryburgh, who appears, by the *letter* which he entioned to the meſſenger as having been ſent him that morning to the pannel, to have en-red with great zeal into the pannel's ſcheme for poſing the removing of the tenants; for that ter alſo hath been proved before you, and con-ins theſe words, " I find Glenure has a mind to eject the tenants, but they ought to be deaf to it, and, at all riſks, keep poſſeſſion, as they are in good hands, and it muſt end in ex-chequer; ſo that I beg they keep poſſeſſion; as there will be no *troops*, they ought to *repel force by force*, and take their hazard of the conſequence, as it can be no more than violent profits."

About *noon* on this Thurſday the 14th, as Bal-heliſh elder hath depoſed, " his gueſt Allan Breck went out with a fiſhing-rod in his hand, and was fiſhing in a burn near the deponent's houſe; but he did not ſee him take any: that he did not take leave of the deponent, and did not return, and he knows nothing of him ſince."

Archibald Mackinniſh the ferryman at Ballache-depoſes, " That, *after mid-day* upon Thurſ-day the 14th of May laſt, as the deponent was ſitting near the ſaid ferry with another man, Allan Breck came behind him, and hoſted (or " hemmed),

" hemmed), and, upon the deponent's looking
" bout, desired him to come to him; which the
" ponent did, and the said Allan inquired of hi
" *if Glenure had crossed the ferry* from Lochaber
" Appin? the deponent told him he was *sure*
" *had not:* that upon this Allan Breck went a
" towards the high road, had on a dun colou
" big coat, and had no fishing-rod; and furt
" deposes, that Glenure was expected back u
" the Wednesday, and the deponent was sure
" must be back the Thursday, as it was curre
" reported in the country he was to have a m
" ing with some gentlemen at Kintalline (on
" Ardshiel estate) Thursday night."

These ferrymen have opportunity to learn the news in the country; and that his intelligence upon this last article was just concerning the motions of Glenure; and that the same were known, is further proved by John Maccom change-keeper at Kintalline, who hath dep
" That, upon Tuesday the 12th of May, Gle
" sent notice to the deponent, that he and
" other company were to be at his house
" Thursday then next, and desired that he m
" be prepared for entertaining them: that h
" cordingly made provision for them; that he
" that Glenure was to be at his house that n
" and that the whole neighbourhood knew o

And accordingly, it hath been proved b persons who were in company with Gle Mungo Campbell who attended him as a cle writer, John Mackenzie his servant, D Kennedy one of the sheriff's officers, that Gl

nd they croſſed the ferry of Ballacheliſh betwixt
our and five in the afternoon of this day; that,
ter croſſing the ferry, Ballacheliſh elder walked
ong with Glenure about half a mile, till they
me to the ſkirts of the wood of Lettermore,
here Glenure, purſuing his journey thro' the
ood, which ſtood on the aſcent of the hill on his
ft hand, was ſuddenly ſhot thro' the body with
o balls, that entred behind his back and came
t at his belly; of which wounds he died upon
e ſpot about ſix o' clock that ſame evening.

It is unneceſſary for me to repeat the ſeveral
oving circumſtances related by his attendants;
t if this baſe and cruel murder was truly perpe-
ted by Allan Breck Stewart, who had expreſ-
his wiſhes to meet Glenure *at a convenient*
ce, it muſt be confeſſed with regret, that he
re met him, or rather in a baſe and cowardly
nner, *lay in wait* for him, at a place *convenient*
eed for that wicked purpoſe, for *concealing*
nſelf, whilſt he went about it, and not far di-
nt from a proper place of *retreat*, after it ſhould
over, until he ſhould be put in condition to
ve the country; for which a ſupply of money
s neceſſary.

The news of the murder was quickly brought
he houſe of the pannel, by John Mackenzie
ſervant of the deceaſed, who went there to
intelligence of Mr. Campbell of Ballieveolan,
where the pannel ſeeing him weeping, aſked
what the matter was? and the ſervant having
old him, his maſter was killed; the pan-
el wrung his hands, expreſſed great con-
ern at what had happened, as what might

" bring innocent people to trouble, and prayed
" that might not happen."

And John Beg Maccoll, the pannel's ſervant who had been ſent expreſs that morning to Fort William, and who was preſent at this circumſtance, relates it in theſe words: " That he was
" hardly an hour returned home, when Glenure's
" ſervant came to the door, calling for the pan-
" nel; that the pannel went immediately to the
" door, and aſked the ſervant what was the mat-
" ter? and what news he had? To which the
" ſervant replied, The worſt I ever had; my
" maſter is murdered in the wood of Lettermore
" upon which the pannel ſaid, Lord bleſs me,
" was he ſhot? To which the ſervant anſwered
" that he was ſhot, and ſaid, the pannel ought
" to go and take care of his corpſe: that the ſer-
" vant immediately went off; but neither the
" pannel, nor any of his family went near the
" corpſe; and the pannel ſaid, that as he and
" Glenure were *not in good terms*, and ſome of
" the people that were to meet Glenure had *arms*,
" he did not care to go near them, not knowing
" what might happen. And farther ſaid, that
" this was a dreadful accident, and he was afraid
" would bring trouble on the country; and ap-
" peared to be ſorry for what had happened."

Here it is evident, that as ſoon as the *deed* was *over*, the pannel's firſt reflexion, from whatever cauſe that ſprung, was an *apprehenſion*, that he might bring himſelf into trouble or danger.

That ſame night, at the pannel's houſe, orders were given to the ſervants by his wife, to *hide the arms* about the houſe; and accordingly John

Beg Maccoll and Dugald Maccoll hid a large Spaniſh gun, that uſed to ſtand in the brew-houſe, and four ſwords. But here it is remarkable, that one of the ſervants ſaw that night the *other ſhorter gun*, but of a *larger bore*, as you have ſeen, both having been produced, and proved before you, concerning which Dugald Maccoll depoſes, "That Allan Stewart, ſon to the pannel, told him and his fellow-ſervant, that he himſelf had concealed the leſſer (or ſhorter) gun, that uſed to ſtand at the end of the girnel in the barn, under the ſaid girnel, where he thought it would be ſafe."

That ſame night, and after the murder was over, two witneſſes have depoſed, that they ſaw *Allan Breck Stewart* on the *hill* above the houſe of *Ballacheliſh* where he had lodged the night before, and not far from the *ſpot* where the murder happened. Theſe were *Katharine Mackinniſh*, ſervant to Ballacheliſh, a witneſs called by the pannel, who ſays, "That in the evening of the 14th of May, ſhe ſaw Allan Breck Stewart at a *goat-houſe* in the *moor* of *Ballacheliſh*, after Glenure was killed; and that Allan Breck then aſked her, what was the occaſion of the ſtir in the town? and that ſhe told him, Glenure was murdered: and further aſked her, who might have committed the murder; and ſhe told him ſhe did not know: and farther ſays, that ſhe told Donald Stewart," (who is nephew and ſon-in-law to Ballacheliſh), "where ſhe ſaw Allan Breck; but that ſhe did not tell him to go to the ſaid Allan, nor did he deſire her."

And

And this Donald Stewart depoſes, " That up
" on the evening of Thurſday the 14th of May
" about night-fall, Katharine Mackinniſh calle
" him out of Ballacheliſh's houſe, and informe
" him, that Allan Breck wanted him, and tha
" he was a little above the houſe on the brae (o
" hill) : that the deponent went up the brae, an
" met Allan Breck, who was then dreſſed in
" great coat, and a dark ſhort coat * under i
" with white metal buttons, the deponent to
" him of the murder, and ſaid, *It could not*
" *but that he, Allan Breck, was about it :* to whic
" Allan Breck anſwered, that he *heard* of th
" murder, but had no hand in it: to which th
" deponent replied, *he did not believe him :* — th
" the ſaid Allan Breck further ſaid, he believe
" he would be ſuſpected of the murder ; and u
" on that account, and as he was a deſerter fo
" merly from the army, it was neceſſary for hi
" to leave the kingdom."

The events of Friday the 15th May laſt, in
mediately following the murder committed on th
evening of Thurſday, do no leſs merit your a
tention, and theſe begin very early on that day
for John Macdonald of Glenco depoſes, " Th
" on Friday the 15th of May laſt, the ſaid A
" lan Breck Stewart came again to the deponen
" houſe at Carnock, at three or four o'clock
" the morning, and knocked at a window wh
" the family were all in bed ; that the depone
" went to the door of his houſe, and there ſa
" Allan Breck, who gave him the firſt notice
" had of Glenure's being murdered the eveni
" befo

* Vid. ferryman.

before, in the wood of Lettermore; and told him, that he was *to leave the country*, and to go the *moor-road* leading to *Rannoch*; and came to take leave of the deponent and his ſtepmother, who is a ſiſter of Ardſhiel's; and that the deponent did not aſk Allan Breck any queſtions about the ſaid murder."

And with Glenco concurs Iſobel Stewart his ſtepmother, who alſo got up, and went out with her ſtepſon to receive Allan Breck's nocturnal viſit at the door: and ſhe ſays, "That ſhe aſked him, what news up the country? To which he anſwered, a good deal of news, that Glenure was killed, or ſhot the evening before, in the wood of Lettermore: that he was come to take farewel of the deponent; for he was to leave the country; and that ſhe aſked him *no more queſtions* about the murder, tho' ſhe aſked him to come into the houſe; but he anſwered he would not ſtay."

Upon this incident it is an obvious reflexion, that neither the pannel's ſiſter, the lady Glenco, nor her ſon, judged it neceſſary to aſk any queſtion at Allan Breck about the murder, which he now related to them, as what had happened a few hours before he came thus unſeaſonably and abruptly to take leave: theſe circumſtances ſuperſeded the queſtion *as ſuperfluous*, who it was that did it?

About *ten o'clock* in the *forenoon* of this ſame day the 15th, Donald Stewart the nephew and ſon in law of Ballacheliſh depoſes "That he met James Stewart, the pannel, in Duror, not far from his own houſe; and that, upon the de-

"ponent's

" ponent's regreting that ſuch an accident,
" Glenure's murder, ſhould happen in the cou
" try, the pannel joined with him, and ſaid, th
" he was informed, that one ſerjeant More, *al*
" John Cameron, had been threatning harm
" Glenure in France; but did not inform the
" ponent who told him ſo: and further depoſ
" that, to his knowledge, ſerjeant More has
" been in Appin theſe ten years paſt.

Now this very Donald Stewart, who is a frie
and neighbour of the pannel's, had, as you ha
heard, the night before ſaid to Allan Breck hi
ſelf, *that he was ſurely the murderer*, which
the ſenſe and opinion of the whole country;
yet here it is very remarkable, that, when
thing was *recent*, and as ſome body muſt h
done it who was likely to be capable of ſuch a
normity, this pannel, for want of a better ſhif
endeavouring to ſtart a very improbable hypot
ſis, and to throw the ſuſpicion on this ſerjeant M
Cameron, which, as it was deſtitute of any fo
dation in truth, gained no ſort of credit or be
and you are to conſider, gentlemen, if it coul
ſtarted by the pannel at this time for any
ther purpoſe than to *divert* the attention
the ſuſpicions of mankind from his friend A
Breck.

The ſame day about *twelve o' clock* Alexa
Stewart travelling packman in Appin, and
couſin to Allan Breck, depoſes, " That the pa
" deſired him to go to Fort-William to *Wi*
" *Stewart* merchant there, and get from him
" *pounds or five guineas*; and told the depo
"

that *his friend Allan Breck* was *about to leave the country*, as there were troops coming into it; and that he *might be ſuſpected of Glenure's murder*; and that it was *incumbent* upon him, the pannel, to *ſupply* the ſaid Allan *Breck* with *money*; and the pannel deſired the deponent to tell the ſaid William Stewart, that he *muſt find him money*, tho' he ſhould *borrow it from twenty purſes*; and alſo to tell him to *give credit in five pounds ſterling to John Breck Maccoll bouman to Appin at Koaliſnacoan* in caſe he came to demand ſuch a ſum: that, in conſequence of this *meſſage*, he went to Fort-William, where he arrived early in the evening, met William Stewart, delivered his meſſage; that William Stewart told him, he had not money; but that next morning he would give him his errand.

William Stewart himſelf, who received this meſſage, depoſes, "That it was about ten o' clock forenoon, or betwixt ten and twelve, that he ſaw the packman at Fort-William; and his wife ſwears it was about mid-day"; and, if they are both in the right, the packman himſelf muſt have been miſtaken, when he ſays that he was diſpatched by the pannel from Aucharn, ſo early as about noon that day; of which circumſtance I ſhall hereafter have occaſion to take ſome notice.

William Stewart further depoſes, "That, at this time, he aſked the packman, if he had come by the road where that unlucky murder of Glenure had happened? and the packman told them, he did; but the deponent did not aſk him who was ſuſpected for it, nor had

"any

" any other converſation on that ſubject, there be
" ing a great many people preſent in the ſhop a
" the time." But this apology notwithſtanding
(for all the people in the ſhop at Maryburgh
would have been ready to liſten to news about ſuch
an uncommon event,) this William Stewart, wh
was ſo well acquainted with the *cauſe of differenc*
betwixt the *pannel* and *Glenure*, being ſo *little in*
quiſitive on this occaſion of receiving a meſſag
from the pannel the day after the murder hap
pened, ſeems to be no otherwiſe accountable
than by the ſuppoſition that he knew ſo wel
who were *Glenure's enemies* at that time, that it wa
improper or unneceſſary for him to be inquiſitiv
about the authors of his murder.

Dugald Maccoll, the pannel's ſervant, depoſes
" That, about four o'clock in the afternoon o
" this Friday the 15th of May laſt, the panne
" deſired the deponent to carry the arms from th
" houſes (at Aucharn) and hide them in th
" moor; that accordingly the deponent and Joh
" Beg Maccoll, took the foreſaid large gun fro
" the back of the ſheep-houſe under the thatch
" and the ſaid four ſwords from under the thatc
" of the barn, and found the gun that uſed t
" ſtand in the barn under the girnel, where th
" ſaid Allan Stewart, the pannel's ſon, *ſaid h*
" *hid it*, and carried them to the moor, and hi
" them in the hole of a rock above the pea
" moſs: that the larger Spaniſh gun that ſtoo
" in the brew-houſe, was charged with powde
" and ſmall drops; and that there was *no ſhot*
" the ſmall or leſſer gun that uſed to ſtand at th
" end of the girnel in the barn: that they over

" too

" took Katharine Maccoll, ſervant to the pannel, " in the brae above the houſe of Aucharn, with " a pock or ſack, and ſomething in it, under " her arm. The deponent aſked her what ſhe " had got in the ſack? to which ſhe anſwered, " that it was *Allan Breck's cloaths*, and that ſhe " was going to *hide them*; and the deponent and " the ſaid John Beg Maccoll, ſaw her hide the " ſack in which the ſaid cloaths were.

This is confirmed by the oath of John Beg Maccoll, the other ſervant, who ſays," they were deſired by " the pannel's wife *to hide the arms better* (*i. e.* than they had done the night before,) and by the oath of *Katharine Maccoll*, who ſays, " That, upon " the evening of this Friday, her miſtreſs, the " pannel's wife, put up a blue coat and red waiſt- " coat, with ſomething elſe, into a ſack, and deli- " vered them to the deponent, deſiring her to " hide them ſome way without: that her mi- " ſtreſs did not tell the deponent to whom the " cloaths belonged, but that the deponent thought " the ſaid coat and waiſtcoat were Allan Breck's: " and ſhe adds, that, ſome time in Summer laſt, " after the above period, Solomon Bain Maccoll, " ſervant to the pannel, told the deponent, that " the ſaid Mrs. Stewart, ſpouſe to the pannel, de- " ſired her to *conceal* what ſhe knew about the a- " bove cloaths, in caſe ſhe ſhould be aſked or ex- " amined about them."

On Saturday the 16th of May, as William Stewart's wife hath depoſed, " She being ſolici- " tous to have the cows bought for her huſband's " uſe, by the pannel, towards ſtocking a farm " they had taken, gave the packman his meſſen-

" ger, three guineas out of her purſe: and th
" packman depoſes, that he got the money fro
" Mrs. Stewart, after he had ſeen William Stewa
" himſelf on this Saturday the 16th, who to
" him he would let him go immediately; a
" that, having got the three guineas, he fort
" with returned to Aucharn, and arrived the
" in the evening, near to which place he fou
" the pannel a priſoner; but the pannel's wif
" and the deponent, having had acceſs to co
" verſe with the pannel apart, the pannel aſk
" the deponent what money he had brou
" from Fort-William? and, upon the deponen
" telling him that he had brought three guine
" the pannel pulled a green purſe out of his po
" ket, out of which he took two guineas, a
" gave them to his wife, who delivered the
" immediately to the deponent; and the pann
" deſired that the five guineas ſhould be ſent
" that unhappy man, meaning Allan Breck,
" *ſee if he could make his eſcape*; and pitched up
" the deponent, as a perſon that ſhould go w
" the money.—That ſoon after the pannel w
" carried off by a party to Fort-William; a
" Mrs. Stewart told the deponent that he wou
" find Allan Breck in Koaliſnacoan; and, ſom
" time after night-fall, the deponent got his ſu
" per at Aucharn, and then the pannel's w
" carried the deponent to the back of the bre
" houſe, where there lay a ſack, out of wh
" the ſaid Mrs. Stewart took a blue coat,
" waiſtcoat, black breeches, a hat and ſo
" ſhirts, all which ſhe delivered to the depone
" ordering him to go with the cloaths and m

" p

ney to Koaliſnacoan immediately, and deliver them to John Breck Maccoll bouman to Appin, if he did not meet Allan Breck himſelf; but directed the deponent not to carry the cloaths to the bouman's houſe, leſt any body ſhould ſee them; that the deponent accordingly ſet out, that ſame night, for Koaliſnacoan." In the mean while, as John Breck Maccoll bouman to Appin hath depoſed, " upon the afternoon of this Saturday the 16th of May, as the deponent was in a fir buſh (or thicket) near Aldnavoin at the foot of the heugh (or deep hollow place) of Corrynakeigh in Koaliſnacoan, he heard a *whiſtle*, and, upon looking up, ſaw Allan Breck at a little diſtance *beckoning* to the deponent to come towards him; which he did: that, after ſalutations, the deponent told him, *he was afraid it was no good action* that occaſioned his being in ſuch a remote place, and at ſuch a diſtance from any common road; that Allan Breck anſwered, the place was not very far from a road: that the deponent, having heard the day before of Glenure's murder, *charged Allan Breck with being guilty of it*; that Allan Breck aſked the deponent, what he had heard about the murder? that the deponent anſwered, that he had ſeen no perſon from the ſtrath (or vale) of Appin, but that two poor women, that had come up Glenco, were telling that Glenure was murdered Thurſday evening in the wood of Lettermore; and that *two people* were ſeen going from the place where he was murdered; and that he, Allan Breck, was ſaid to be one of them."

" That

" That Allan Breck anſwered, he had no con-
" cern in it; and that, if *his* information was
" right, there was but *one perſon* about the mur-
" der; and that, as he was idle in the country,
" he was ſure he would be ſuſpected of it; but
" that would give him little concern, if he had
" not been a *deſerter*, which would bear harder
" upon him, in caſe he was apprehended, than
" any thing that could be *proved* againſt him about
" the murder.

" That the deponent did not believe him when
" he ſaid he had no hand in the murder of Glen-
" ure; and, not caring to *preſs* it much upon him,
" told him, that, as he was already ſuſpected, it
" was *dangerous* to have any intercourſe with him,
" and preſſed him to leave the place, leſt he ſhould
" bring the deponent and his family to trouble.

" That Allan Breck ſaid, he did not doubt but
" that the *family of Ardſhiel* would be ſuſpected
" of the murder, and it was probable the *pannel*
" and *Allan* Stewart his ſon might be taken into
" cuſtody about it; and that he, Allan Breck,
" was afraid Allan Stewart the pannel's ſon's
" *tongue* was not ſo good as his father's; by
" which words the deponent underſtood that Al-
" lan was eaſier intrapped than the pannel.

" And, the deponent ſtill inſiſting upon Allan
" Breck's leaving that neighbourhood, the ſaid
" Allan Breck told him he would not leave the
" town (as the witneſs expreſſes it, or the place)
" for eight days, unleſs *ſome neceſſaries he expected*
" came to him; and told the deponent, unleſs
" ſome *money* came for him before next morning
" he, the deponent, *muſt go to Fort-William* with
"

a letter; that, tho' the deponent refuſed to go, Allan Breck looked about among the *trees*, and finding *a wood pidgeon's quill*, made a *pen* of it, and having made *ink* of ſome *powder* he took out of a powder horn that was in his pocket, he wrote a *letter*, which he told the deponent he muſt deliver to *William Stewart* merchant at Maryburgh.

" And, upon the deponent's telling him, that he would by no means undertake that, as he was informed that every body that went to Fort-William was ſearched, Allan Breck ſaid, it was an eaſy matter to hide a letter; the deponent anſwered, if he was catched upon the ſtreets, what would he do with it? Allan Breck told him that the letter muſt not be found upon him by any means, and, if he was catched with the letter, he muſt *eat it* before it was found; that the deponent then told the ſaid Allan Breck, that he did not know but he would be obliged to go for ſome beer next day to Fort-William, in which caſe he might poſſibly carry the letter; but at the ſame time told the ſaid Allan Breck, that, if he ſhould be taken up, he would tell all he knew about him.

" That the ſaid Allan Breck deſired the deponent to go to Callart, or Glenco's houſe, for a peck of meal to him; which the deponent refuſed; and, at parting, the ſaid Allan Breck told the deponent, he would ſee him next day."

The bouman further depoſes to the dreſs in which he met Allan Breck at this time, being the black

black ſhort coat and trowſers lying upon the table and produced to him, and proved to have been the property of the pannel.

Early upon *Sunday morning*, the 17th of May laſt, as both the *packman* and the *bouman* have depoſed, they met near to the bouman's houſe whereof the latter at firſt denied to the packman that he had ſeen Allan Breck; and, upon the other's being ſurpriſed at this, and ſaying, he was informed he would meet Allan Breck there, and had brought *ſome neceſſaries* for him; and the bouman inquiring *what* he had brought? the packman anſwered, *five guineas* and *ſome cloaths*; and told, that he had a great deal of trouble in getting the money; that he had been ſent by the pannel to *William Stewart* at Fort-William, from whoſe wife he got *three guineas*, and that the pannel or his wife gave him the other *two guineas*, and that the pannel's wife gave him the *cloaths*, and informed him, that Allan Breck was to meet him at that place; *whereupon* the *bouman owned* to the *packman*, that he had ſeen Breck the day before, and that *he expected theſe things*, and directed the packman how he might find Breck, if he would go to a hill he pointed out to him, near to the heugh of Corrynakeigh, and whiſtle once or twice, he believed Breck would come to him: but that the packman declined, telling, that he had ſlept none for two nights, and was very much fatigued, and upon this delivered to the bouman the five guineas, and told, he had left the cloaths at ſome diſtance, and would ſhow them to the bouman when he was going away; and then went to ſleep in the bouman's houſe.

Af

After the packman had ſlept ſome hours here, e dined with the bouman his landlord, and told im, " that the pannel, and Allan his ſon, were made priſoners the evening before, and ſent to Fort-William; and upon the bouman's inquiring who was ſuſpected of Glenure's murder? the packman anſwered, that it was Allan Breck; and that it was likely *the pannel* and Allan his ſon *would ſtand the firſt trial* for it." And about oon this Sunday the packman went away, without ſeeing his couſin Breck, after having pointed it to the bouman a fir-tree, at the root of which e had hid Allan Breck's cloaths.

The *bouman* further depoſes (and indeed every ord of his teſtimony merits your attention, and as given in a moſt lively, natural, and credible anner), " That, after he had gone to bed upon the ſame *Sunday evening*, he heard one knocking at the window; and, imagining it might be Allan Breck, he got up, and went out in his ſhirt, and ſaw Allan Breck at a little diſtance from the houſe; and upon the deponent's coming up to him, Breck aſked him, if any meſſage had come for him? the deponent told him, that his *uncle's ſon* had come with *five guineas* and *ſome cloaths:* that Allan Breck complained there was but little money, but hoped it would do his buſineſs: that the deponent told the ſaid Allan Breck, he was afraid he would ſtarve among the heather, and that he was not able to help him: that Allan Breck anſwered, he had no occaſion for victuals, but wanted a *drink* very much; upon which the deponent went back to his houſe, and carried

" out

" out ſome whey, or ſome milk and water in
" noggin, and the *five guineas*, and gave both
" Allan Breck: that the deponent then went
" the *cloaths*, which he alſo gave the ſaid All
" Breck, which conſiſted of a blue long coat,
" waiſtcoat, black breeches, a hat, ſome ſtoc
" ings and ſhirts.

" That the deponent told the ſaid All
" Breck, that the pannel and his ſon Allan we
" apprehended on account of Glenure's murde
" to which Allan Breck anſwered, that that
" no more than *he expected*; but it would not
" nify much, as there could be *no proof* agai
" him; but expreſſed ſome apprehenſion,
" *Allan* Stewart, *ſon* to the pannel, might be
" *trayed by his own tongue.*

" That the deponent deſired the ſaid All
" *now* that he had got all the *neceſſaries* he
" pected, to go about his buſineſs; and the
" Allan Breck promiſed to do ſo, but told the
" ponent, that he muſt meet him, the ſaid Al
" Breck, next morning; that he muſt deliver
" deponent the *cloaths* he, the ſaid Allan Bre
" had then on, to wit, the black ſhort coat
" trowſers, ſhown to the deponent, in the cle
" hands, in order to be kept by the deponent,
" he delivered them *to the pannel's wife:* that
" deponent promiſed to meet the ſaid Allan Br
" next morning, but did not ſee him; and w
" the deponent went out next morning, he fo
" the ſaid ſhort black coat, trowſers, and
" noggin in which he had carried the drink to
" lan Breck, lying together in the place where
" deponent parted with Allan Breck the n

" bef

before; and that he hath not ſeen the ſaid Allan Breck ſince."

On Monday the 18th of May, Allan Breck withdrew, as he had propoſed, by a very unfrequented road, through the moors, and over the mountains, to Rannoch; and came that ſame day to the houſe of Allan Oig Cameron in Rannoch, his uncle, with whom he remained till Wedneſday following. The uncle hath ſaid, "He preſſed him earneſtly to make a clean breaſt, and tell him all he knew of Glenure's murder. To which Breck anſwered with an oath, that he had never ſeen Glenure dead or alive; the uncle however frequently repeated his inſtances, till Breck became angry, and the uncle deſiſted further inquiry."

Four days after Breck left his uncle's houſe, that is on the 24th of May, "the uncle having occaſion to be fourteen miles from his own houſe, (farther down the country) and paſſing by the ſide of a wood, he heard a *whiſtle* from the wood, and, looking about, ſaw Allan Breck, who then told his uncle, that his only fear was to be apprehended by the military, as he had been a deſerter. The uncle anſwered, he was very ſure the friends of the deceas'd would procure him his diſcharge, if he could diſcover the murderer. And Breck replied, that they were at this time in ſuch fury and rage, that he was very ſure, were he apprehended, he would be hanged."

It is unneceſſary that I ſhould reſume minutely what the other witneſſes ſaid, who ſaw Breck to part in Rannoch or Athole, when he paſſed

thro' that country at this time; his appearance beſpoke the ſituation he was truly in, tha of a malefactor ſtudying to conceal himſelf, an making his eſcape.

It is however material that you ſhould furthe obſerve, that after Breck Stewart had thus *diſap peared* from the country of *Appin*, where th murder was committed, every body in that cou try, and in that of Rannoch, thro' which he r tired, and in both which he was well know and had relations, imputed to him the actu murder, and to no other perſon. You have a ready heard, that Donald Stewart, the nephew Ballacheliſh, charged him with it to his face, the night of Thurſday the 14th, when the blo of the deceas'd was hardly yet cold, as the bo man did on the Saturday following; and, on t Monday following, Cameron his uncle diſcov ed the ſame belief. And I have now to add u on this head of the voice of the country, or t *fama viciniæ*, that Ballacheliſh elder, who h been his landlord the night before the murd ſays, "That the morning after the murder " committed, the deponent really thought, t " Allan Breck Stewart might be the actor in t " murder, becauſe he did not return to the " ponent again." And Macinnes the ferryman Ballacheliſh, ſays, "That he heard no body ſuſp " ed for the murder of Glenure, but the ſaid " lan Breck." And James Mann, change-kee in Rannoch, ſays, "That, before Allan Br " came to his houſe in May laſt, it was repo " in that country, that he was concerned in G " ure's murder; and that he himſelf ſuſpe

"

him at the time, as he came unſeaſonably, and was wanting proviſions."

There are yet other *circumſtances ſubſequent* to the *murder*, and to the *pannel's commitment* at Fort-William, that deſerve your conſideration with the reſt of the evidence; one of theſe is depoſed by Hugh Maclean barber in Maryburgh, who ſays, "That one day being called by the pannel to ſhave him, he thinks upon a Saturday, the pannel aſked him, what news he heard in the town? the deponent anſwered, that he, the pannel, was to be carried to Edinburgh on the Monday following; whereupon the pannel ſaid, that was a matter that gave him no concern, and wiſhed it had happened ſooner; and was afraid of nothing, but that his ſervants might be inticed to take money, and turn againſt him; and deſired the deponent, as from him, to tell his ſervants to ſay nothing but truth, *to keep their minds to themſelves*, and he would take care of them; and accordingly the deponent delivered the pannel's meſſage in his own words, to two of his ſervants who were then in ſeparate cuſtody in the ſame priſon; and that they were both of the name of Maccoll."

Again, gentlemen, you have heard read, and, dare ſay, with much regret, the examination the pannel's wife and daughter, taken before the ſheriff upon oath, wherein they ſay, "That Allan Breck Stewart came to the pannel's houſe on Monday the 11th, in his French dreſs (that has been often deſcribed), and that he went away next morning, after taking leave of them, dreſſed in the ſame habit;" and you have heard

heard by what a cloud of witneſſes it was proved that, from the evening of Monday the 11th, til the morning of Monday the 18th Allan Breck was ſeen in no other dreſs, than the ſhort coa and trowſers belonging to the pannel, now lying in court; and, by the pannel's own ſervants an the packman, it has been proved, that Breck' French cloaths were, by Mrs. Stewart's order, pu into a ſack, and hid in the moor near the pannel' houſe, from thence brought back by the ſam ſervant maid, by order of Mrs. Stewart, and b her delivered to the packman, by him to be carrie to Breck at Koailſnocoan; and that the maid ſer vant, who was employed by her miſtreſs to hid theſe French cloaths, and to fetch them back a gain, was, by a meſſage from her, deſired to *con ceal* what ſhe knew about the cloaths, in ca ſhe ſhould be aſked or examined about them.

Theſe, I think, gentlemen, are the moſt m terial facts and circumſtances that have been pr ved before you, which I have *reſumed* in the o der of time as they happened, with intent give you a juſt view of the caſe of the panne whom you are now trying; and I am perſuad that the reflexions which naturally ariſe fro theſe facts, in reſpect of the queſtion before yo muſt have occurred to yourſelves, when y heard the evidence given, and when I have aga reſumed it: and therefore my obſervations to y upon the whole ſhall be as few and as ſhort poſſible.

I have admitted, that it is incumbent upon in this trial, as againſt James Stewart the pann to make out, that Allan Breck Stewart was gu

of the actual murder in queſtion; and I apprehend, that is done to full conviction, upon theſe conſiderations.

And, firſt of all, gentlemen, here has been a very extraordinary and ſhocking murder, committed within the county or diſtrict of Appin, in the moſt northern part of this county, of a gentleman who had an eſtate and relations in that neighbourhood; a man of a fair character, who was going about the duty of his office, in the king's and the public ſervice, intending no injuſtice to others, and apprehending no harm to himſelf; for he and all his attendants were unarmed, and yet he is bereaved of his life, not by an open enemy, upon a declared or a ſudden quarrel, but baſely aſſaſſinated and ſhot behind his back, by a perſon *lying in wait* and lurking among trees for that purpoſe.

This, gentlemen, is a very ſtrange and ſhocking event; and, as for every event there muſt be *a cauſe*, ſome body muſt have done it, and upon *ſome reaſon* or temptation ſuch as it was: and this not like a murder committed on the ſtreets, or the high-ways leading to a populous city, but the corner of a county, where the deceas'd was himſelf a gentleman of note, and where every body of any note is known to every body: the deceas'd, therefore, muſt have had one or more enemies fit or capable, or likely to have deſigned or perpetrated ſuch an action; and who theſe are, you have been now for many hours inquiring.

And, upon the *reſult* of that inquiry, what doubt can there be, in the firſt place, that Breck Stewart

Stewart was the actor: his character, and his ſi
tuation as a deſerter from the King's ſervice, an
now actually liſted in the French ſervice, and i
this country only as a *ſojourner* for a viſit to h
friends, rendered him the *moſt likely* perſon the
reſident in that country, for being guilty of ſuc
a thing; nay ſo much the *only* perſon likely, th
the pannel himſelf, when he caſt about for ſom
other man on whom the ſuſpicion of this gui
might be thrown, mentioned only one *ſerjea*
More Cameron, who is of a character and ſituatio
very ſimilar to that of Allan Breck, but with th
very material *difference* indeed, which rendered
impoſſible for that ſolution of the queſtion to pa
that ſerjeant More had not been ſeen in Appin f
ſeveral years paſt; and ſurely the abſent wande
could not do it.

But next, and more cloſely, the only *kno*
quarrel that any body had with the deceas'd, w
that of this pannel *James Stewart*, about his o
removing the *laſt year*, and the removing of ot
tenants of *Ardſhiel this year*; into which quar
his former pupil or ward, and his intimate frie
Breck Stewart, had moſt vehemently enter
and diſcovered that on ſeveral occaſions; and t
he conſidered it as a cauſe for *deadly* or *mortal*
tred, in ſo much that the pannel himſelf hath
clared, " That, if Allan was guilty of the m
" der, he believes it behoved to be on accoun
" the diſturbance given to the tenants on
" eſtate of Ardſhiel; and knows no ot
" cauſe."

And more cloſely ſtill, you have heard the
vidence of what paſt *immediately before*, and

this murder; of the behaviour and actions of his Breck Stewart, who had formerly diſplayed is hatred to the deceas'd, for this very cauſe, ivolous and unjuſt as it was. On the 10th of May, Faſnacloich, within a mile of Glenure's houſe, e gets intelligence of Glenure's motions, and de- gns to proceed in removing the tenants of Ard- iel, when he ſhould return from Fort-William. n Monday the 11th he comes to the pannel's ouſe, and there lays aſide his French dreſs, and uts on a country dreſs belonging to the pannel; d in the ſame habit, next day, ſets out to Bal- cheliſh, hard by the ferry over which the de- as'd was to return; from thence he goes to vi- two ſiſters of the pannel's in the neighbour- ood; he returns to Ballacheliſh on Wedneſday; mains there that night, and till about noon next y, when he takes a fiſhing-rod in his hand, a pretext for going out alone, and for ſtaying me time; but, ſoon after, the fiſhing-rod was laid de, and he goes in purſuit of his real game; he lls aſide the ferryman, and inquires if Glenure d yet croſſed the ferry, and being aſſured he was t, he walks off, and was never again ſeen about t ferry or the houſe of Ballacheliſh, but a few urs after, that ſame night, and when the murder d been committed, he is ſeen by Katha- e Macinniſh, the maid-ſervant of Ballache- , at the *goat-houſe* in the moor of Ballacheliſh. d if Donald Stewart ſpeaks true, there alſo he him, and charged him with the murder. re was then the deſerter, now a foreign ſol- r, and *one declared mortal enemy* of the deceas'd, uiring for the deceas'd a little before he paſſed the

the ferry; and, ſoon after the murder, found in th
hill, near to the ſpot where it happened, and a
joining to the houſe where he had lodged th
night before; but to which he never returned
but, inſtead of that, wanders in the fields; bea
up Glenco and his mother betwixt three and fo
in the morning; tells them Glenure was mu
dered, and he was going abroad; takes leave
them at the door; retires from thence to a *den*
a *deſart*, the *heugh of Corrynakeigh in Koaliſnacoa*
where he was to *wait* for his *baggage* and his *pr*
miſed viaticum; and where he durſt not even ve
ture to approach the bouman's houſe, except
come to the door or the window in the nigh
and when he had got theſe neceſſaries he wait
for, withdraws, as he propoſed, a-croſs the kin
dom, over a tract of moors and mountains uni
habited, till he came to his uncle's houſe, and
by him, as well as every body elſe who kne
him, *reputed and believed* to be the *murderer*. A
I have no doubt, gentlemen, but after the pro
of all theſe things which you have heard, y
muſt be entirely ſatisfied, that he was *truly ſuc*
and upon that perſuaſion, will proceed to t
main queſtion that is *directly* before you, name
the *evidence* of the *acceſſion* of *this pannel* to t
murder, which may be ſummed up in the artic
following.

Firſt of all, That it was *the quarrel* of *this pa*
againſt Glenure, that had been only taken up a
eſpouſed by *Breck Stewart*, *for which* Breck co
mitted *the murder* itſelf, as the immediate acto
the quarrel, as you have heard, or *the cauſe of*
fence ſo highly reſented, was, That this pannel
him

imſelf removed from his poſſeſſion laſt year by Glenure, who at the ſame time withdrew from he pannel, or forbore to employ him in the of-ce of an aſſiſtant or ſubfactor, which had given im intereſt and influence with the tenants of rdſhiel; and that this year he was inſiſting to emove three or four tenants, whom the pannel ad lately placed there; in all which Allan Breck ad no perſonal intereſt or concern: a ſtrange uſe of offence, I admit, to be ſo highly taken up, d ſo deeply reſented! but every provocation orks, according to the temper or turn of mind the perſon who receives it; and what thoſe of e pannel were in this reſpect, you have heard om the evidence, and have ſeen in his conduct fore you, when he himſelf objected to Stewart Lagnahaw, as an incompetent witneſs againſt n; for that the witneſs bore him capital enmi- becauſe he, the pannel, had been inſtrument- in cauſing the witneſs to be removed from the ſeſſion at Aucharn, in which the pannel ſuc-ded him; nay, the pannel carries this madneſs far, as to have threatned Ewan Macintyre and relations, or poſterity, a poor herd, who had er ſerved the pannel himſelf, for no other of-ce, than that he engaged to be herd to Camp- of Ballieveolan, the tenant who ſucceeded the nel in the farm of Glenduror, from which he removed laſt year.

The ſecond article in proof is, that, in conſe-nce of the deep reſentment conceived by the nel for this ſuppoſed injury of the removings, diſcovered, upon ſeveral occaſions previous to murder, an intention or deſire to take away

the life of Glenure; this he expreſſed to Appin
bouman in a moſt inveterate manner, that h
would be willing to crawl upon his knees to
window to ſhoot Glenure: but thereafter he pr
ceeds farther than expreſſions; his converſatio
with the Maccolls, his own ſervants, in the brew
houſe about Chriſtmas laſt, could be intended f
nothing but to inſtigate them, either by them
ſelves, or by finding out proper inſtruments
mong the common people of Appin, to cut
Glenure: and, when the late removings came
be in agitation laſt Spring, which the pannel
himſelf to oppoſe with all his might, it appe
that his malice and fury againſt Glenure was
creaſed; witneſs his converſation with his t
landlords on his way to Edinburgh, and w
Mr. Maclaren of Stirling his fellow traveller
of the way; in which, among other things,
pannel told them, that he had actually
Glenure a challenge to fight him with piſt
and told Maclaren, (who ſays he found the
moving was much at the pannel's heart) that, if
ſhould get relief neither at Edinburgh nor at
Britiſh parliament, he would take the only re
dy that remained. Now, to a man that labou
under this diſtemper of mind, it was natural
incident, that, after he had returned from Ed
burgh in the end of April, with ſuch degree
ſucceſs as to obtain a fiſt on his bill of ſuſpen
and had ſome hopes given him at Edinburgh, t
when the barons of exchequer ſhould meet, t
would countermand theſe removings; when
had called the tenants together, and acquai
t

hem with theſe operations of his on their behalf, nd ſent them with a notary, on the 1ſt of May, o intimate the ſiſt to Glenure; and when, after his, he learned, on the 11th of May, that Glen-re had gone to Edinburgh in his turn, got the ſt removed, was come back to the country, nd to proceed in the removings; that, from this eſh diſappointment and affront, that muſt leſſen im in the eyes of thoſe tenants whereof he had ſumed to be protector, the reſentment and hatred hich he formerly bore Glenure ſhould be yet gher inflamed, and drive him on to ſend out reck his emiſſary to cut off the gentleman whom ey both looked on as their enemy, in hopes of ety to Breck the actor, by his getting abroad, here he was to go however; and to himſelf the *ndator* and accomplice, by his remaining in ap-arance quiet at his own houſe.

And the evidence, that in fact this was the e, conſiſts of theſe further circumſtances, of hich you have heard the proof; that the actual rderer of Glenure, in the quarrel of this pannel, d in reſentment of which this pannel had diſ-vered deſigns or intentions againſt his life, when quarrel itſelf was wrought up to its higheſt ch, ſet out from the pannel's houſe, leaving own cloaths and baggage there, dreſſed in a of the pannel's cloaths fitter for the purpoſe, eing leſs remarkable or diſtinguiſhed than his n; goes directly and puts himſelf in the way of nure; paſſes his time whilſt he waited for him, ting the ſiſters of this pannel in that neigh-rhood; and with Stewart of Ballacheliſh, who alſo in the general intereſt of the pannel in reſpect

reſpect of the removings; retires, when th
bloody deed was done, to a deep retreat that wa
not far off, where he remains till this panne
cauſed to be ſent him his baggage and a *viaticu*
of money, ſuch as he could afford or ſcrape toge
ther, to enable the aſſaſſin to get off.

And that this aid and ſuccour was ſent in con
ſequence of a *concert* betwixt them, previous t
the murder itſelf, appears from theſe circumſtan
ces; that, on the morning of Thurſday, on the
vening whereof the murder was committed, th
pannel ſent an expreſs to *William Stewart* at M
ryburgh, earneſtly preſſing him to ſend him eig
pounds, as the price of cows not yet delivere
and it hath not been explained, and far leſs pr
ved, on the part of the pannel, who is a man
ſome credit and ſubſtance, tho' he had then b
little caſh in hand, what other preſſing exigen
he then had for an immediate ſupply of mon
when he was living upon his own farm at A
charn, he has not ſhewed you, that he had
cepted a bill payable on Friday the 15th of M
or the term of Whitſunday this year, or that
was under diſtreſs of any kind, that required ſu
immediate ſupply.

Again, as the meſſenger of Thurſday brou
back no caſh, there is another ſent on Friday,
ing the *packman*, the *couſin-german* of Breck St
art himſelf, who carried *two commiſſions* from
pannel: firſt, That by all means he ſhould
him *five guineas*, and this, tho' William Stew
ſhould *borrow it from twenty purſes*; and,
To tell William Stewart to *give credit* in
pounds ſterling to John Maccoll bouman to Appi

Koaliſna

Koaliſnacoan, in caſe he came to demand ſuch a ſum, he *pannel* at the ſame time *telling the packman,* when he gave him this meſſage, that Allan *Breck* was about *to leave the country*; that he *might be ſuſpected of Glenure's murder*; and that it *was incumbent upon him* the pannel *to ſupply Allan Breck with money.*

Now, gentlemen, to this meſſage from the pannel to his friend William Stewart, by the couſin of Breck Stewart, you are to *join another corresponding circumſtance* depoſed by the *bouman*, to which I muſt call for your particular attention; for, in relating what paſſed betwixt him and Allan Breck on the afternoon of Saturday the 16th, he ſwears, "That Allan Breck then told him, he muſt remain there, till ſome neceſſaries he, expected came to him; and that, unleſs ſome money came for him before next morning, he, the bouman, muſt go to Fort-William with a letter, which Allan Breck then wrote to William Stewart merchant at Maryburgh." Does not this plainly ſpeak out, *rebus ipſis & factis*, the *concert* betwixt the pannel and Allan Breck, before they parted, as if you had heard it from witneſſes preſent at their conference: Breck was ſetting out upon an exploit, which, if performed, would require a little money, of which he, it appears, was then deſtitute, or very ſcarce, to carry him off the country; the pannel himſelf was not then in caſh; but the aſſurances he gave to Breck, muſt have been, that, without loſs of time, he, the pannel, would ſend the money directly to Breck at Koaliſnacoan, or otherwiſe ſend him credit upon his, the pannel's, friend and correſpondent,

dent, William Stewart merchant in Maryburgh. *Their reſpective actions* correſpond exactly with *the concert*, and are unaccountable without ſuppoſing it. *On Friday* the pannel ſends to William Stewart for *five guineas* in caſh, and an order to give credit to Appin's bouman for *five pounds* more, in caſe he ſhould call for it. *On Saturday*, Allan Breck being with this bouman, at a place diſtant from the pannel, tells the bouman, that unleſs money came for him before *next morning*, he, the bouman, *muſt* go *to Fort-William* with a *letter* which *Breck then* wrote to *the ſame William Stewart* merchant at Maryburgh; and *ſuch a letter* that Breck tells the bouman, if he was catched with it, he muſt *eat it* before it was found upon him.

Theſe circumſtances are ſo pinching againſt the pannel, upon the capital point now in iſſue, that he has made an attempt to prove an anſwer or ſolution of this difficulty, and that by bringing Katharine Macinniſh, then ſervant to Ballacheliſh, to depoſe, That when ſhe met Allan Breck at the goat-houſe upon Thurſday night, " the ſaid Allan deſired her to tell Donald Stewart in Ballacheliſh to go to the pannel, and deſire him " ſend the ſaid Allan money;" and that ſhe delivered this meſſage to Donald Stewart that ſame night.

Again, this Donald Stewart hath depoſed, that Katharine Macinniſh delivered him any ſuch meſſage from Allan, but, " That ſhe called him " out, and told him that Allan Breck wanted him " and was a little above the houſe in the brae " hill, where the deponent went and met Allan " Breck

Breck, who then told the deponent he was going immediately to leave the kingdom, and was going then for Koaliſnacoan; and deſired the deponent to acquaint the pannel that he was gone to that place, and deſired him, if poſſible, to ſend him money there; and the deponent then promiſed to acquaint James Stewart of the above meſſage. And this Donald Stewart further depoſes, "That, after his converſation with the pannel about ſerjeant More, he delivered the above meſſage from Allan Breck to the pannel; and that the pannel did not ſay whether he was to ſend the money or not: that this converſation happened about ten o'clock in the forenoon of Friday the 15th of May laſt; and that there was no body preſent."

And, as I think the only plauſible thing proed for defence of the pannel, conſiſts of theſe wo teſtimonies I have juſt repeated, I muſt beg our attention, gentlemen, to the remarks I have offer upon them, that you may be the better ble to diſcern what degree of credit or effect they eſerve, or whether they deſerve any at all.

And, firſt of all, this Donald Stewart is nehew and ſon in law to Ballacheliſh, and lives in mily with him; and it appears the whole famiare in the general intereſt of the pannel; for hn Stewart the younger of Ballacheliſh, the other in law of this Donald, hath depoſed, That, in the time of the Spring-circuit in this place in May laſt, he was ſummoned to be of the jury; but that, at the earneſt requeſt of the pannel that he ſhould be preſent with a notary at the removing of the tenants from the eſtate

"of

" of Ardſhiel, he was going on that errand to th
" pannel's houſe, but returned to Appin, upo
" hearing of the murder committed that day;
and has further depoſed, " that he was in Edi
" burgh in Auguſt laſt, and was preſent at con
" ſultations of the pannel's lawyers and agen
" touching his defence:" you are therefore
weigh the credit due to a ſingle witneſs of that f
mily, ſwearing to a fact or converſation betwi
the pannel and him when there was no body pr
ſent, that they have judged material to be prov
for the pannel.

2*dly*, I have already obſerved to you, in ref
ming the evidence of theſe two witneſſes, t
ſon-in-law, and the ſervant-maid of Ballach
liſh, that there is a *manifeſt diſcrepancy* betwe
them, tho' it is not a long time ſince the fact th
depoſe to happened, and it hath ever ſince be
the ſubject of attention and converſation in t
country where they live; for the maid ſays, " She
ceived the full meſſage from Allan Breck, and deliv
" ed it to Donald Stewart; and that *ſhe did not de*
" *Donald* to go up to Allan in the hill, nor did All
" Breck deſire her to ſend Donald to him there
and yet Donald ſwears, " That the maid inform
" him, that Allan Breck wanted him, and t
" him where Breck was; and that Breck himſ
" gave him the meſſage to be delivered to the pa
" nel; which he delivered accordingly about
" o'clock next day to the pannel, whom he
" alone in the fields." So that the whole of
tale, attempted to be proved by theſe two witn
ſes, appears extremely ſuſpicious, and their
counts hang not well together.

3

3*dly*, Donald Stewart's *tale*, if it be true, and it be alſo true, that the packman was not ſent away by the pannel to Fort-William, till about twelve o'clock on Friday, might ſerve to account for, or to have given riſe to the packman's *meſſage that day*; but how will it ſerve to account for the *former expreſs* ſent upon the *morning* of *Thurſday* by the pannel, to the ſame *William Stewart* at Inaryburgh, *to ſend him down immediately eight pounds ſterling by the bearer*.

4*thly*, If it be true, which both William Stewart and his wife depoſe, that the packman came to them at Fort-William, upon Friday betwixt *ten and twelve*, as the *huſband ſays*, or *about midday*, as the wife ſays, then the packman muſt have been miſtaken in the *hour* that he was diſpatched by the pannel from his houſe, when he ſays, it was about *twelve o'clock* that day; and if Stewart and his wife are rather to be believed, that he got to Fort-William by noon, he muſt have been diſpatched by the pannel long before ten o'clock, when Donald Stewart ſays, he delivered Breck's meſſage to the pannel.

And, *laſtly*, That which affords a ſolid and ſatisfying *reply* to the defence founded on theſe two teſtimonies, of the ſon-in-law and ſervant-maid of Ballacheliſh, is this conſideration, That ſuppoſing it true, for argument's ſake, which they have ſworn as to the ſubſtance, that Breck ſent notice by Donald to the pannel, that he was going to Koaliſnacoan, and wanted money, how will that account for what was obſerved a little while ago, " of the pannel's writing a letter upon Saturday afternoon, to be ſent by the bou-

" man to William Stewart at Maryburgh?" fo
tho' here be *a tale*, I'm afraid lately invented b
the pannel, of *a meſſage from Breck to him after t*
murder, to tell the *place* of his retreat, and that h
wanted *money*, he hath forgot to provide witneſſ
for proving another thing, and that is *a meſſage*
return from the pannel to Breck, to give Breck
tice how the money was to be *found* or furniſhe
namely, by the *pannel's giving credit to him or*
the bouman upon William Stewart at Maryburg
for, without ſuch notice, how could Breck fro
the bottom of his *heugh in Koaliſnacoan*, ſo *exac*
co-operate with what the *pannel* was doing fro
his *own houſe at Aucharn*, as to write a letter
Saturday to the *ſame William Stewart* merchant
Maryburgh, to be ſent by *Appin's bouman*,
which William Stewart *on Friday* the pannel ſen
Breck's couſin, to bid him give credit *to Appi*
bouman for five pounds, if he ſhould call for it.

This circumſtance therefore, which is quite u
anſwered, as well as *the expreſs on Thurſday mor*
ing for *money*, before the murder happened, mak
the evidence before mentioned remain in f
force, the *tales* of the meſſage to the pannel me
tioned by theſe two witneſſes notwithſtanding.

There hath been hardly any thing elſe prov
for the pannel's defence, that merits a reply: it
of no moment, that this was not the firſt time th
Breck Stewart made uſe of the pannel's habit
cloaths above mentioned; he had uſed the
once before in the month of April, when he we
to Rannoch, whilſt the pannel was at Edinburg
but it was not the leſs true, that this habit w
far more commodious for the murderous purp

e went about, when he left the pannel's houſe n Tueſday morning the 12th of May, than his wn French cloaths would have been.

Again, it is true, that, on the morning of Thurſ- ay, he writes a letter for a notary, to take pro- ſts againſt the removings, at the ſame time that e writes for the 8*l.* and his council have ſaid, at this was purſuing quite another ſcheme: but is is by no means concluſive, to prove his inno- nce; he was galled and incenſed by theſe re- ovings, and his proteſt by a notary, after his ll of ſuſpenſion was refuſed, would be of very tle avail, and yet he writes for one to attend, to provided for all events, as it was a poſſible caſe, at the intended murder of Glenure might have en prevented, by his going another road than e common one, or other accidents.

And as little can it avail the pannel, that, after was in cuſtody, he wrote a letter to Mr. Mac- lane at Edinburgh deſcribing Allan Breck, and preſſing a deſire that he might be apprehended; this was a letter ſhown to colonel Crawfurd, e commanding officer, and now appears to have en a manifeſt diſſimulation, when, by the owing of the pannel's own defences, he ſent mo- y to Allan Breck in order to help him to eſcape, account, as he ſays, of his relation, and having en formerly his ward or pupil.

When therefore, gentlemen, you ſhall conſi- and duly weigh the whole facts and circum- nces proved before you, and which I have now umed; and when to theſe I have laſt mention- you ſhall add, that, beſides the *cloaths* and the ey furniſhed to Breck, there is a ſtrong pre- ſumptive

ſumptive evidence that the very leſſer or ſhorte
gun produced before you, and proved to hav
been the pannel's, and which is of the wider bor
of the two, was the very inſtrument with whic
the murder was committed, for none of the ſer
vants ſaw it upon Thurſday night when they hi
the arms; and when they ſaw it on Friday nigh
when the arms were carried up to the hill, it wa
empty; and captain Chapeau and others have de
poſed, it appeared to them to have been lately fire
when he found it on the 23d of May.

That the pannel, on the firſt notice he receive
of the murder being over, diſcovered an *appr*
henſion that he himſelf might be brought to troub
on that account.

That he made an attempt, tho' a very unavailin
one, to throw the ſuſpicion of the murder upo
ſerjeant More Cameron who had not been in th
country for many years.

That the pannel being in cuſtody ſent a me
ſage by his barber to his ſervants *to keep their min*
to themſelves, and he would take care of them

That his *wife* and one of his children have t
ſtrongly diſcovered their ſenſe of the importan
of the article of the *cloaths* furniſhed by the pa
nel to Breck, by *ſwearing*, that Breck left th
houſe in his own French cloaths, tho' the wife,
leaſt, moſt certainly knew the contrary.

I ſay, gentlemen, when you put all theſe thin
together, you will form your opinion, and pr
nounce accordingly, whether this pannel is, or
not guilty of acceſſion to this horrid murder?
all circumſtantial evidence, there is a poſſibil
of innocence, even without ſuppoſing any of t
witne

witneſſes perjured; for example, in the caſe of ewart Abercrombie, which you heard menti-ned in the debate on the relevancy in this trial; was urged for him, and very truly, that ſome her man without a hat, as well as he was, might ve been the murderer of the deceas'd; for there as no witneſs who could ſwear he ſaw him do : and in the other caſe of McCowan you heard entioned, who was convicted, principally, upon ſhirt and ſtockings being found in his poſſeſſion, hich the poor woman had carried with her from me; it was poſſible that McCowan might ve got theſe garments immediately, or by pro-eſs, from ſome other perſon who had robbed murdered the poor woman. But, in both eſe caſes, the pannels were convicted, and ſuf-ed accordingly.

And, in the preſent caſe, if, notwithſtanding hat you have heard, you can believe, that Breck ewart committed this murder purely of his own cord, and without any privity or previous con-t with this pannel, and the aid given by the nnel to carry him off, was out of mere com-ſſion, and a reſolution firſt taken after the pan-l had heard of the murder itſelf; then ſurely will be your duty to acquit the pannel; for, tter that this murder, atrocious and ſcandalous it is, ſhould remain unavenged by human ju-ce, than that one innocent man ſhould ſuffer.

But, on the other hand, if, upon the whole evi-nce, you cannot believe the pannel innocent, t are convinced in your own minds, that he has en knowingly acceſſary to this murder; then, ubtleſs, your duty to God and your country, re-ires of you to pronounce him guilty. Mr.

Mr. *BROWN for the pannel.*

Gentlemen of the jury,

I Appear for the pannel; and, as this trial h already taken up a great deal of time, I ſha not follow the honourable and learned gentlem on the other ſide, in ſome things which I conce to be extraneous to the matter in iſſue: b ſhall endeavour to ſum up what I have to ſay as few words as the importance of the caſe, a variety of matters to be conſidered, will adm of.

As I am at all times under no ſmall degree concern, as often as I appear in any caſe of t nature, ſo, I muſt acknowledge, I am at preſe under greater concern than ever I was in any fo mer caſe, when I conſider the many diſadvan ges which this unfortunate pannel labours unde

In the firſt place, I am under the neceſſity entering the liſts with a learned gentleman, great abilities, and of much more experience theſe matters than I can pretend to.

But, gentlemen, if I have undertaken wha am not ſufficient for, the fault lies at the do of the private proſecutor, who, before the p ſecution was commenced, begun early with p engaging the whole council at the bar, who h moſt experience in theſe matters, not with intention that they ſhould aſſiſt in carrying on proſecution, (for many of the gentlemen w were engaged have not appeared at the trial) with an intention that they might not have it th

their power to appear on the ſide of the pannel.

A juſt proſecution ſcarcely ſtands in need of an advocate to ſupport it. What then ſhall be ſaid of a proſecution, where the proſecutor deſpairs of prevailing otherwiſe, than by depriving the pannel of thoſe who were moſt able to defend him?

For my own part, I choſe rather to have it ſaid of me, that I had imprudently undertaken what I was not ſufficient for, than that I had uncharitably refuſed to give any poor aſſiſtance in my power to a gentleman who imagines, that I can be in the ſmalleſt degree uſeful to him.

I might alſo take notice of many other hardſhips which the pannel has ſuffered from cloſe confinement, during more than four months, contrary to the great charter of liberty in this part of the kingdom,—from the unwarrantable ſeizure of his papers without any legal authority,—and from the ſhortneſs of the time allowed him for making his defence: but theſe things have been ſo fully inſiſted on by the gentlemen who have ſpoke on the ſame ſide, that it is unneceſſary for me to repeat what has been already ſaid. The facts have not been denied by the proſecutor; and as every man muſt ſee at firſt ſight, what a prodigious loſs it is to a pannel, to have acceſs, for ſo long a time, denied to every perſon who was capable of aſſiſting him in making his defence, ſo I muſt be forgiven to ſay, that if this trial was at all proper for a circuit-court (which may be doubted) it ought to have been brought on in the ordinary form, by way of preſentment, and not

not ſummarily, in the form of criminal letters. By the former method, the pannel would have had upwards of three months to prepare for his defence, inſtead of fifteen days, which is all the time the pannel has had, ſince the criminal letters were executed againſt him.

But, gentlemen, there is yet another diſadvantage, which this pannel labours under, which gives me more uneaſineſs than all thoſe I have already mentioned, and which, I muſt beg leave to ſay, I dread more than all the proof which has been brought againſt him.

What I mean is, an impreſſion which has been *induſtriouſly* raiſed and artfully propagated, as if it were ſome how *neceſſary* that the pannel ſhould be found *guilty*; and as if his being *acquitted* might bring a reflexion on this part of the kingdom.

Gentlemen, I do not expect, nor do I deſire, that you ſhould return a verdict contrary to evidence: but it is my duty to put you on your guard, not to allow yourſelves to be carried off by *paſſion* or *prejudice*; and tho' I have no doubt of the integrity or honour of any of the gentlemen to whom I now addreſs myſelf; yet, upon this occaſion, it is my duty to ſay, That if you find the pannel *guilty*, either *without evidence*, or upon *doubtful evidence*, you will thereby bring the blood of an *innocent* perſon upon your own heads:—I ſay, an *innocent perſon*; for every man is held to be *innocent*, till ſuch time as he is convicted, not by *doubtful*, but by *legal* and *compleat evidence*.

And, if the evidence is *inſufficient*, which I am hopeful I ſhall be able to ſhow, I am under no apprehenſion,

apprehenſion, that your acquitting the pannel can ever bring any reflexion either upon yourſelves or upon your country. It is the peculiar happineſs of this part of the iſland, that, in capital caſes, the law makes it neceſſary, that the whole of the evidence ſhould be taken down in writing; and as that has been fairly done in the preſent caſe, the authentic record will ſatisfy every *reaſonable* and *thinking* perſon, that the grounds upon which you have proceeded were ſolid; and if you have the approbation of *ſuch*, you ought to diſregard what others may ſay of you.

Having ſaid ſo much in the general, I ſhall now proceed to conſider the crime which has been charged againſt the pannel, and the evidence which has been brought in ſupport of that charge. As to the crime itſelf, I readily agree with every one of the gentlemen who have ſpoke before me, that it is of ſo *atrocious a nature*, that words can hardly be found, ſtrong enough to expreſs, in proper colours, its enormity: and I ſhall alſo admit, that it is highly aggravated from the particular circumſtances which have been very properly mentioned by the honourable gentleman on the other ſide. But then, the proſecutor would do well to obſerve, that the *more atrocious* the crime is, the *more natural* it is to *preſume*, that the pannel was *not guilty* of it. And it is my duty to put you on your guard, that a juſt indignation at the heinouſneſs of the crime, may not lead you to condemn without *proper evidence*. For, however *foul* the crime may be, it is much better that it ſhould eſcape unpuniſhed, than that an *innocent* perſon ſhould ſuffer for it.

The crime charged againſt the pannel is, *that he entered into a conſpiracy with* Allan Breck Stewart *to murder* Colin Campbell of Glenure *by the hands of the ſaid* Allan, *and that the murder was accordingly ſo committed.* And therefore, before the proſecutor can prevail, it behoves him to prove not only that the murder was committed by the hands of Allan Breck; but alſo, that the pannel and he were previouſly in a conſpiracy to commit the murder in that manner.

The proſecutor pretends, not to have brought any direct evidence of either of theſe facts, but the guilt of both pannels is inferred from a variety of circumſtances, which it now belongs to me to conſider, ſo far as is neceſſary for the defence of this pannel.

And here I ſhall not diſpute the general propoſition laid down by my Lord advocate, "That "crimes may be proved by *circumſtances*." I admit that any crime may be ſo proved, but then I humbly contend, that the circumſtances ought to be ſuch, as *neceſſarily infer* the guilt of the pannel.

In order that this matter may appear in its proper light, I muſt beg leave to lay down one general rule, which admits of *no exception*, and ought to be ſtrictly followed in judging of all circumſtantial evidence; which is, That where any fact proved againſt the pannel, is in its own nature ſuch, that it will naturally admit either of a good or a bad conſtruction; that conſtruction ought always to be received, which is *favourable* for the pannel.

This is founded upon the firſt principle of natural juſtice which directs us, "To do to others

as we would have them do to us;" and as every one of you would think yourſelf hardly uſed, if a bad conſtruction were put upon any action of yours which would naturally bear a good one; the pannel aſks no more, than that you ſhould judge of his actions by the ſame rule.

And here, gentlemen, I do not mean, that, in circumſtantiate evidence, it is neceſſary, that every circumſtance taken ſeparately ſhould be concluſive: if that were neceſſary, few crimes could ever be proved. But what I intend is, that, in all crimes whatever, it is neceſſary that the proof ſhould be certain and concluſive; and, as the law juſtly rejects all arguments drawn from *conjectures* and *forced* conſequences, it is not ſufficient to convict a pannel *that he might have been guilty* of the crime charged: but the proof ought to be ſuch as to leave no room to *doubt*, that he *was* ſo; and tho' it is not neceſſary, in a circumſtantiate evidence, that every circumſtance, conſidered apart, ſhould be concluſive; yet, I conceive, I may lay it down as a certain principle, that, where the whole of the circumſtances are ſuch that they might *naturally* have happened *without inferring the guilt* of the pannel, ſuch circumſtances, however numerous, ought to have no authority againſt him.

To apply this rule to the preſent caſe, I am hopeful, I ſhall be able to ſatisfy you, gentlemen of the jury, that the facts charged againſt the pannel are either *not proved*, or they are ſuch, that *all* of them might have *naturally* happened; and at the ſame time the pannel be *entirely innocent* of the crime of which he is accuſed.

But,

But, before I proceed to conſider particularly the ſeveral articles of the proof brought againſt the pannel, it will be neceſſary to put you in mind of ſome things which happened previous to the murder, as theſe may tend to explain many things which occur in the proof, and which ſhall be afterwards particularly taken notice of.

You have already heard from the gentleman who ſpoke firſt on the ſame ſide with me, that in the month of February 1749, the deceaſed Colin Campbell of Glenure was appointed factor by the barons of exchequer, upon the forfeited eſtates of Lochiel, Callart, and Ardſhiel; and, as the pannel, who was then tenant of part of the eſtate of Ardſhiel, had always lived in great friendſhip with Glenure, and had as fair a character as any gentleman in that part of the country, the management of the whole eſtate of Ardſhiel was committed to him by Glenure, and his bill was taken for that yearly rent at which the eſtate had been rated after ſurvey by the barons of exchequer, leaving it to the pannel to apply the ſurplus to the uſe of Ardſhiel's children. This is proved by ſeveral letters and receipts produced, and in particular from Glenure's letter to the pannel, dated the 11th December 1749, in which he writes as follows, " This moment I had your " by your ſervant with 20*l.* 18*s.* 5*d. ſterling*, and " the warrant I formerly gave you. Receiv " encloſed your note. Your payments are ver " good for which I am obliged to you. I intend " God willing, to be at Edinburgh on, or a day o " two before the 25th current; that is, I intend " to ſet out from this place this day or to morrow

eight

eight days, and will go by Glaſgow and make no ſtop by the way. Remember Lady Ardſhiel's diſcharges, and all your other tackling. I heartily wiſh you a good journey."

About the month of April 1751, Glenure aped to the pannel to give up the farm of Glendu-, which he then poſſeſſed, to Mr. Campbell of llieveolan, Glenure's particular friend, who, it pears, had offered an additional rent; and, tho' pannel had not been legally warned; and ſo s not obliged to remove for that year; yet he dily agreed with Glenure's propoſal, removed m the poſſeſſion and took from Mr. Campbell Airds the farm of Aucharn, where his family w reſides; but he ſtill continued to uplift the ts as formerly from the tenants of Ardſhiel, likewiſe to poſſeſs a ſmall farm called Letter-re which he had ſubſet at about 6*l. ſterling per um.*

In the month of April laſt, Glenure executed a ning, and obtained a decreet of removing inſt no leſs than five or ſix tenants of the e- of Ardſhiel, and alſo againſt as many nts of the neighbouring eſtates of Lochiel Callart, decerning them to remove from r reſpective poſſeſſions as at the term of itſunday laſt; and, among the reſt, the pannel's ſubtenants in the farm of Lettermore were alſo rned to remove.

This was complained of as a very great hard- in that part of the country, more eſpecially he tenants in poſſeſſion paid their rents regu-, and were willing to take the oaths to the rnment; and, altho' the pannel's private in-

tereſt

tereſt in the matter was not great, yet, as he fo
ſaw, that a procedure ſo ſevere, might be atte
ed with diſagreeable conſequences, he went
often expoſtulated with Glenure upon the ſubj
but he having perſiſted in his reſolution, the
nants upon all the three eſtates, tranſmitted
morials of their caſe, to be laid before the bar
of exchequer; and, as the pannel was then oc
ſionally at Edinburgh, about ſome private aff
of his own, he preſented the memorials to
of the barons, who diſapproved greatly of Gl
ure's conduct, but could do nothing towards p
ting a ſtop to the removings, as a quorum of
barons could not be held till the next exchequ
term; tho', at the ſame, he undertook to rep
ſent the caſe to the whole barons, adding,
he made no doubt but they would give an orde
the factor, to continue the tenants in poſſeſſi
which in part appears from a letter wrote by
pannel to Charles Stewart writer, dated 27th
pril 1752, and referred to in the inventary
joined to the libel, in the following wo
" Yeſternight I arrived here, after a very trou
" ſome jaunt; and as the barons could not be
" together, put it out of my power to proc
" an order for our factor; but baron Kenn
" who I found very kind, and ſeemed to ſym
" thize much with the tenants caſe, gave it as
" private opinion, that they ſhould ſit their
" ſeſſions for this year, and that all juſtice w
" be done them; and thought they ſhould ta
" proteſt againſt the factor's proceeding in a b
" I mean the Mamore and Appin tenants.
" ſame advice I had from all I adviſed with,

were not a few, and all were of the ſame mind, that the tenants had a good chance, once their affair came before the barons."

Upon this the pannel adviſed with council, how e tenants might be kept in poſſeſſion till the exequer term, and by their advice applied to the urt of ſeſſion for a ſuſpenſion of the removing; d, a bill of ſuſpenſion having been accordingly eſented, a fiſt was obtained, and the bill ordined to be anſwered; which fiſt was intimated Glenure, upon the pannel's return to the coun-: but, anſwers having been thereafter made to e bill by Glenure, who had gone to Edinburgh that purpoſe, as the pannel had, thro' ignorance the forms, carried off with him the principal l with the fiſt upon it, the anſwers were advi- without the bill, and the bill refuſed by an erlocutor the 5th of May laſt.

Upon Saturday the 9th of May, Glenure rerned to his own houſe in the country; and ſo on as it came to be publickly known, that the l of ſuſpenſion was refuſed, and that upon Fri- the 15th of May, being the term-day, Glen- was to execute the warrant of ejection againſt e tenants of Ardſhiel, it was reſolved, in conquence of the advice the pannel had got from dinburgh, that the tenants ſhould take a proteſt ainſt Glenure, in caſe he ſhould attempt to put s warrant of ejection in execution; and that ey ſhould continue in poſſeſſion notwithſtandg thereof, till ſuch time as their caſe ſhould be lly heard before the barons, and that their dictions ſhould be known.

Accordingly, in proſecution of this plan, upon Tueſday

Tueſday the 12th of May, the pannel wrote letter to Alexander Stewart writer in Glenettie, d ſiring him to come and act as notary to the pr teſt intended to be taken againſt Glenure; and the ſame time he prevailed upon two gentlem of character in the neighbourhood, *viz.* Jo Stewart younger of Ballacheliſh, and James Ste art younger of Faſnacloich, to undertake to tend as witneſſes, and aſſiſt at taking the prote but, the ſaid Alexander Stewart the notary havi happened to be out of the way, when the pa nel's ſervant went to his houſe, and, this havi been notified to the pannel upon the morning Thurſday the 14th of May laſt, (the day on whi Glenure was murdered) he diſpatched a ſerva of his own very early, with a letter to Char Stewart writer at Auchintour, informing him the diſappointment he had met with by the a ſence of the notary to whom he had firſt wro and deſiring him (the ſaid Charles) to come his houſe, with all poſſible expedition that nig in order to act as notary to the proteſt intend to be taken againſt Glenure next day.

In this ſituation matters ſtood upon Thurſd the 14th of May laſt, being the day upon whi this moſt execrable murder was committed; an therefore, the facts previous to the murder bei adjuſted, I ſhall now proceed to conſider the e dence which has been brought for proving bo branches of the libel; 1ſt, That the murder w committed by the hands of Allan Breck: an 2dly, That it was committed in conſequence o previous conſpiracy betwixt him and the pa nel.

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And here it is highly neceſſary, that you ſhould greatly on your guard, to diſtinguiſh accurately tween the facts charged againſt *the pannel*, and oſe charged againſt Allan Breck; which is the ore neceſſary, as in the libel, the facts are ſo ermixed, that it is no eaſy matter to diſtinguiſh one from the other. And though I muſt ad-t, that the learned gentleman on the other ſide s been very candid in ſumming up the evidence, I could have wiſhed he had been more care- to diſtinguiſh the proof, ſo far as it relates to different pannels charged in the libel.

With regard to the firſt queſtion concerning the lt of *Allan Breck*, I ſhall not take up much of r time; for though it is incumbent upon the ſecutor, to prove that the murder was com-ted by the hands of Allan Breck, yet it is not olutely neceſſary for the pannel to maintain the ocence of that perſon, as it is of no import-e for the proſecutor to prove, that the murder committed by Allan Breck, unleſs he ſhall prove, that the pannel was acceſſary to it.

nd, therefore, I ſhall very ſhortly ſtate the ctions againſt this part of the evidence, lea- it to your own conſciences to determine you, far the evidence brought by the proſecutor is cient.

nd the firſt circumſtance charged in the libel "That, upon Monday the 11th of May, Allan reck having been informed that Glenure had one that day to Lochaber, and was to return the ferry of Ballacheliſh upon the Thurſ-y after, he had laid aſide his French cloaths

" which were remarkable, and had diſguiſed him
" ſelf in a black coat and trowzers, belonging
" the pannel, with an intention to commit t
" murder."

But, in the firſt place, it is not proved, that, up
Monday the 11th of May, Allan Breck had be
particularly informed of Glenure's motions;
though it does indeed appear, from the depo
tions of ſome of the witneſſes referred to by t
proſecutor, that Allan Breck had heard of Gl
ure's having ſet out that day for Lochaber, ye
does not appear that he had got any informat
what road he was to take, or at what time he
to return: none of the witneſſes have ſaid
and, in caſes of this nature, no fact ought to
preſumed without proper evidence.

2*dly*, Though it is proved that Allan Breck
change his cloaths upon the day libelled, yet
not natural from thence to preſume, that this
done with an intention to commit the mur
It clearly appears from the depoſitions of the
neſſes relative to this article, " That, upon
" mer occaſions, Allan Breck had been in
" of laying aſide his French cloaths, and put
" on the dreſs of the country." And, in p
cular, it is proved by the depoſitions of the t
Maccolls (who cannot be ſaid to have been *pa*
for the pannel) " That he had on theſe very clo
" belonging to the pannel, when he wen
" Rannoch in the month of April laſt;"
therefore, as it was no *new* thing, but a *co*
practice of Allan Breck's to lay aſide his Fr
cloaths, and put on the dreſs of the countr
is wrong in the proſecutor to lay hold of thi
cumſta

mſtance, which is, in itſelf, *innocent*, and wreſt it into an argument againſt the pannel; pecially as it appears from the depoſitions of the me three witneſſes, " That Allan Breck wrought with them in the potatoe-field the greateſt part of that afternoon upon which he came to the pannel's houſe," which was a very natural rea- n for laying aſide his *French cloaths*, as not being oper for that purpoſe.

The next circumſtance charged againſt Allan eck is, " That, for ſome days before the mur- der happened, he had hovered near to the fer- ry of Ballacheliſh, at which it was known Glenure was to paſs; that during that period, he had been twice at the houſe of Ballacheliſh, twice at the houſe of Glenco, and once at the houſe of Callart."

But, in the firſt place, it is not proved, that an Breck *knew* that Glenure was to paſs at the ry of Ballacheliſh; and therefore it is ridicu- s to talk of hovering or lying in wait, when was not known at what ferry Glenure was to s.

dly, If Allan Breck had *known* that the de- ct was to paſs at Ballacheliſh, and had *intend- o lie in wait*, he would have kept cloſe at Bal- heliſh, and would not have gone either to *Cal-* or *Glenco*, which are each of them at three es diſtance, the firſt on the North ſide, and other on the South ſide of the ferry. It is ch more natural to preſume, that Allan Breck t to theſe places with an intention to viſit his nds who lived there. And this is another in- ce where the proſecutor *wreſts* a circumſtance

which

which is in itſelf *innocent*, into an argument a
gainſt the pannel.

The third and ſtrongeſt circumſtance again
Allan Breck is, " That he abſconded that very nig
" upon which the murder happened, and left t
" country ſoon thereafter."

But this circumſtance has been in like mann
obviated by the proof brought in behalf of t
pannel. It is clearly proved, that, in the ye
1745, Breck was a ſoldier in the regiment co
manded by colonel Lee; that, immediately af
the battle of Preſton, he deſerted to the rebe
that he remained with them till they were hap
ly defeated at the battle of Culloden, and th
ſince that time, he had been in the French ſe
vice; and therefore, as Breck muſt have foreſe
that, upon the murder of Glenure, a very ſtr
ſearch would be made, it was very natural
him, *tho' innocent*, to abſcond and leave the cou
try; and accordingly it appears from the pro
that he gave this account of the matter to ev
perſon whom he had occaſion to converſe with
on that ſubject; and therefore, as this circumſta
as well as all the reſt may naturally bear a c
ſtruction *favourable* for the pannel, it is wr
in the proſecutor to put a *bad* conſtruction u
an action which will *naturally* bear a *good one*.

The only other material circumſtance fr
which the guilt of Allan Breck is inferred,
that, before the murder, he had, upon differ
occaſions, uſed threatning or reſentful expreſſi
againſt the deſunct; but, as it ſeemed to be
mitted by the learned gentleman on the ot
ſide, that expreſſions alone were not ſufficien
in

fer the crime, I ſhall have occaſion to conſider ore particularly the effect of ſuch expreſſions, nder the ſecond branch of my argument hich properly relates to *this pannel.*

And whatever may be your opinion with re- rd to Allan Breck, I muſt humbly contend, at there is no ſort of *evidence* that the pannel, w at the bar, was in any previous conſpiracy to mmit this heinous murder; and, as far as the ture of the thing could admit of it, the pannel s proved the improbability of his being any y acceſſary to it.

In the firſt place, the *character* of the pannel es far to protect him from any ſuſpicion of this nd; tho' that part of the evidence was not en down in writing, yet he has proved by wit- ſſes, *beyond all exception*, and can appeal to your n conſciences for the truth of it, that his *cha- ter* in private life was never *ſtained* by any *diſ- ourable* action. Is it poſſible, then, to believe, t one of ſuch a character can at once plunge nſelf into the deepeſt guilt, by committing the me of *aſſaſſination*, which is of all others the ſt ſhocking to human nature?

2dly, The pannel's guilt is ſtill the more *impro- le*, as he could not poſſibly propoſe any benefit it. He was a man of *too good underſtanding*, to ſee that Glenure's place as factor would n be ſupplied; that the ſtricteſt ſearch would made for the authors of this enormous crime; that his family, as being nearly connected with *forfeited perſon*, would be firſt ſuſpected: is it ible, that, in ſuch circumſtances, it could en- into the imagination of the pannel, to commit

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a crime of ſo black a nature, when he could no only reap no benefit by it, but when it behove neceſſarily to involve his own family in inevitable diſtreſs and ruin?

But, 3*dly*, There is another circumſtance which renders it *incredible* that the pannel could have been in any *previous conſpiracy* to commit this murder; for it is clearly proved, that at that very time he was purſuing quite contrary meaſures; that he had provided himſelf, and was endeavouring to provide the other tenants in other poſſeſſions; and it is further proved, not only by verbal, but alſo by written evidence, *which cannot lie*, That his intention was, to proceed in a legal way, by taking a proteſt againſt Glenure upon the term-day, in caſe he ſhould attempt to put his removing in execution. This is clearly proved by the pannel's letter to Charles Stewart the notary, dated the 14th of May, being that very day on which Glenure was murdered: which letter ought to have the greater weight, as it is not produced by the pannel, but by the proſecutors, the ſame having been recovered by them out of Charles Stewart's hands.

In this letter (which greatly deſerves your attention) the pannel writes to Charles Stewart, That, by the negligence of his ſervant, he had been diſappointed of the notary he firſt intended, " which he reckons a very great misfortune." And then the letter concludes in theſe words: " The next beſt thing I can think of is, that " you be here this night, without fail, if you " ſhould hire a horſe; as every thing muſt go " wrong, without a perſon can act, and that " I can truſt. This is ſuch a tie upon all the

" membe

« members of our family, that I'll preſs you no « further, but do depend on ſeeing you once this « night."

It is indeed true, that this letter does not particularly mention that the pannel's intention was to make a *proteſt* againſt *Glenure*; but then, this is fully explained by the depoſitions of the witneſſes, particularly by the oath of Charles Stewart, who depoſes, " That he received a ſecond letter from the pannel, of date the 14th of May, deſiring him to attend the next day at the ejection; but he declined the ſame, becauſe he did not care to diſoblige Glenure."

This is further confirmed by the oath of John Beg Maccoll, the perſon who carried the letter, who depoſes, " That, upon Thurſday the 14th of May laſt, the pannel gave a letter to the deponent, to be delivered to Charles Stewart notary-public at Maryburgh; and told the deponent, that the letter was to make or cauſe Charles Stewart come to the country of Appin to proteſt againſt Glenure, in caſe he had not a ſufficient warrant to remove the tenants of Ardſhiel: that the pannel deſired the deponent to make all poſſible diſpatch, and deſire John Breck Maccombie at Kintalline, and John More Maccoll, ſervant to the pannel, who was then at Kintalline, to ferry the deponent from Kintalline to Onich, being much ſhorter than the ferry of Ballacheliſh: that he ſet out from Aucharn about ſeven or eight o' clock in the morning, and made all the diſpatch he could to Fort-William, where he arrived about twelve o' clock. Depoſes, That, when he came to Fort-William,

" he

" he delivered the letter he got from the panne
" to William Stewart merchant in Maryburgh
" who told him that Charles Stewart the notar
" was not at home, he having gone to the brae
" of Lochaber in the morning; and told the de
" ponent, that he, the ſaid William, had wrote t
" the pannel in the morning, and that there wa
" a notary along with Glenure, who would ſerv
" the pannel, as well as Glenure."

And it is further proved, that the pannel ha gone ſo far as to provide proper witneſſes to be pre ſent at taking that proteſt, as appears from the de poſition of John Stewart younger of Ballachelish who depoſes, " That, in the time of the Spring " circuit in this place, in May laſt, he was ſum " moned to be of the jury; but, at the earne " requeſt of the pannel, that he, the deponen " ſhould be preſent with a notary at the removin " of the tenants from the eſtate of Ardſhiel, h " was going, on that errand, to the panne " houſe; but returned to Appin, upon hearing " the murder of Glenure committed that day."

And this obſervation, that the pannel had this time no thoughts of the execrable murder which he is now accuſed, is further confirme from Wiliam Stewart's letter to the pannel, date the ſame 14th of May, recovered by the proſe cutors from out of the pannel's repoſitories, whic concludes in the following Words: " I find Gle " ure has a mind to eject the tenants; but th " ought to be deaf to it, and, at all riſks, ke " poſſeſſion, as they are in good hands, as it mu " end in the exchequer; ſo that I beg they ke " poſſeſſion; as there will be no troops, th

" oug

ought to repel force by force, and take their hazard of the conſequences, as it can be no more than violent profits, which is often modified in inferior courts; beſides the exchequer, who will inſiſt for no ſuch, their chief deſign being to have a ſet of peaceable tenantry, and a well paid rent: ſo that the people ought to be aſſured they will be ſupported as far as law will, which, no doubt, muſt determine in their favours."

From the depoſitions of theſe witneſſes, joined th the letters which have been read in your eſence, it is inconteſtably proved, That the plan ncerted between the pannel and his friends went further, than to take a proteſt againſt Glenure, caſe he ſhould attempt to execute his warrant ejection againſt the tenants; or, at furtheſt, t the tenants ſhould continue in poſſeſſion notthſtanding the warrant, and run the riſk of lent profits. And it is of great importance in preſent argument, that theſe two letters are ed upon the morning of *that very day* on which murder happened; a circumſtance utterly *inſiſtent* with the libel, which has no other footto ſtand upon than this, That the pannel and an Breck had *concerted* the murder *previous to time when Allan Breck changed his cloaths*, which, as been already obſerved, was *four days* before murder.

Amidſt ſuch glaring improbabilities, it would uire the ſtrongeſt evidence to convict the pan- And this leads me to conſider the ſeveral s according to the order in which they are laid he indictment.

And the firſt thing charged in the libel is, that the pannel had conceived an unjuſt reſentment againſt the defunct, for three different reaſons: 1ſt, Becauſe he had accepted the factory of the eſtate of Ardſhiel; 2dly, Becauſe he had removed him from the farm of Glenduror; and, 3dly, Becauſe that, in the month of April 1752, he had taken meaſures for removing certain other perſons who were tenants and poſſeſſors of that eſtate.

The firſt is clearly diſproved by letters and diſcharges under the hand of the deceas'd, which have been read in your preſence; and from which it appears, that, for ſeveral years after the date of the factory, the deceas'd and the pannel were in perfect good terms; and that Glenure had ſuch confidence in the pannel, that he had employed him to uplift the rents from the other tenants.

The ſecond ground of reſentment is diſproved by the oath of Alexander Stewart of Innernahyle, who depoſes, "That the time when the pannel "removed from Glenduror, he told the depo"nent, that he had had a meeting with Ballieve"lan, and that there was a compromiſe betwixt "them: that he did not hear of any warning "but that he removed voluntarily."

And therefore the only ground of reſentment which remains, is, That the defunct had taken meaſures for removing ſome of the other tenants of the eſtate, as at the term of Whitſunday laſt: and though it may be true, that the pannel has, upon different occaſions, complained in ſtrong terms, of the hardſhip of removing the tenants; yet it is impoſſible to believe, that ſo trifling a cauſe of reſentment, could have ſo ſtro

in effect, as to puſh on the pannel to the barbarous murder of which he is now accuſed; more eſpecially, when it is conſidered, that he is no ways related to any of theſe tenants, and that none of them are ſo much as of the ſame name.

The proſecutor has been pleaſed to lay great ſtreſs upon certain fooliſh expreſſions alledged to have been uſed by the pannel upon the ſubject of theſe removings.

It muſt occur to every man, how extremely dangerous a proof of this kind is: there are very few witneſſes who can repeat exactly the particulars of any converſation, and ſtill fewer who can recollect theſe particulars at any diſtance of time. In ſuch caſes, much may depend upon the tone of voice, or geſture of the perſon who ſpeaks, and the variation of a circumſtance may alter the meaning of the whole expreſſion.

Beſides, there is an obvious diſadvantage which this pannel labours under, and of which, in the preſent caſe, he has no ſmall reaſon to complain; which is, That the particular expreſſions charged againſt him are not taken into the libel, neither are the circumſtances of time and place mentioned; by which the pannel is deprived of the opportunity he ought to have had of bringing a contrary proof. If the particular expreſſions were known to the proſecutor, it was but juſt that they ſhould have been taken into the libel; and, on the other hand, if they were not known, no ſuch thing ought to have been at all mentioned.

And indeed, with regard to ſome of the expreſſions, it is impoſſible to believe, that the pannel uſed the words depoſed to by the witneſſes. Thus,

in

in particular, the ſtrongeſt expreſſion is that de
poſed to by John Maccoll the bouman, who de
poſes, " That, about two years ago, he heard th
" pannel ſay, That he would ſpend a ſhot o
" Glenure, though he went on his knees to th
" window to fire it." But as this expreſſion
only depoſed to by one witneſs, who ſeems to hav
been abundantly forward in depoſing againſt th
pannel; ſo it is utterly *incredible*, that, at the tim
depoſed to by this witneſs, the pannel would hav
uſed this expreſſion; as it is clearly proved, b
the depoſitions of the other witneſſes, that th
deceas'd and the pannel were then in ſtrict friend
ſhip together; and that at that time the deceas
had ſuch confidence in the pannel, that he w
then employing him as ſub-factor upon this eſtat

It would be very tedious, and is unneceſſar
for me to make particular obſervations upon th
other expreſſions depoſed to by the ſeveral wi
neſſes; at the ſame time, it is ſcarcely poſſible f
me to recollect them, as I had no opportunity
know them till they were depoſed to by the wi
neſſes themſelves. It is ſufficient for me, in g
neral, to obſerve, that ſome of them may be
an innocent meaning; that others of them appe
to have been uttered when the pannel was
drink; and that none of them are ſo ſtrong,
that depoſed to by the bouman, which has be
already anſwered.

And tho' it ſhould be admitted, that the pa
nel had, upon different occaſions, expreſſed hi
ſelf fooliſhly in terms which implied reſentme
againſt the defunct; yet this, by itſelf, is by
means ſufficient to prove, that the pannel w

acceſſ

ceſſory to the murder which afterwards hap-
ened.

And here I have only to appeal to your own
earts, and aſk, how often you have heard reſent-
l expreſſions thrown out in converſation, where
ou were yourſelves conſcious, that nothing was
riouſly intended: and tho' it may be true, that
ch expreſſions may ſerve as a weight in the
ale with other circumſtances, to convict the
nnel, yet this holds only where theſe other cir-
mſtances cannot naturally admit of an innocent
nſtruction, but can never apply to the preſent
ſe, where, I am hopeful, I ſhall be able to
ow, that the other circumſtances proved againſt
e pannel, have no ſhadow of relevancy in
em.

At the ſame time, it is a circumſtance of ſome
ight, in the preſent caſe, to take off the effect
theſe expreſſions, that it is not pretended, that
e murder was committed by the pannel; on
e contrary, the libel ſets forth, that the mur-
r was committed by the hands of Allan Breck,
d however, it may be true, that expreſſions im-
rting reſentment, proved againſt the pannel,
y go far to preſume guilt, where none other
condeſcended on as the actor and perpetrator of
e murder; yet that will no ways apply to the
eſent caſe, where the very libel, upon which
e pannel is accuſed, ſets forth, that the murder
s not committed by the pannel, but by an-
ner.

The 2d fact charged in the libel, is founded
a concert ſuppoſed to have been entered into
twixt the pannel and Allan Breck, upon Mon-
day

day the 11th of May; in conſequence of which concert, it is alledged the murder happened. But as the proſecutor has brought no evidence of any ſuch concert, or that Allan Breck and the pannel had any conference whatever upon the ſubject that day; ſo it is proved, as ſtrong as the nature of the thing can admit of, *by the proſecutors own witneſſes*, that no ſuch thing could poſſibly have been concerted that day. The ſum of the evidence relative to this matter, is, that Allan Breck came to the pannel upon Monday the 11th about mid-day, the pannel being then ſitting in a field of potatoes, in company with three of his ſervants:—that after they had ſit for a quarter of an hour together, a meſſage came from Mr. Campbell of Airds, deſiring the pannel to come to him at Keil, which is about two miles diſtant from the pannel's houſe; that, in conſequence of this meſſage, he immediately went to Keil, leaving Allan Breck with his ſervants: that he remained with Airds all that afternoon, and did not return to his own houſe till late at night, the family being then at ſupper, and ſeveral ſtrangers along with them:—that the pannel and Allan Breck had no converſation together in private that night:—that they ſlept in ſeparate places, and that the pannel had left his houſe next morning, before Allan Breck got out of bed.

As this is a very material circumſtance, in reſpect it is admitted upon all hands, that this was the *only* occaſion the pannel and Allan Breck had of converſing together, between Glenure's return from Edinburgh, upon Saturday the 9th, and the murder, which happened upon the Thurſday thereafter

er, I muſt beg leave, to reſume, particularly, he evidence on this head.

John More Maccoll depoſes, " That, upon Monday the 11th of May laſt, he ſaw Allan Breck come to Aucharn, dreſſed in his long cloaths, and came directly where the pannel, Allan his ſon, John Beg Maccoll and the deponent, were covering potatoes: that when Allan came up, they were reſting themſelves, and ſitting by one another: that Allan Breck ſat with them, and all the converſation the deponent obſerved, conſiſted in ſome queſtions about the welfare of the people of Glencrearan; and that he did not obſerve the pannel have any private converſation with the ſaid Allan Breck; for that, a very little time after Allan Breck's arrival, the pannel had a meſſage to meet Mr. Campbell of Airds at Keil; and that this happened after mid-day: that the pannel immediately, upon receiving the above meſſage, went away, in order to meet Airds; and that no body went along with the pannel, Allan Breck having ſtaid with them."

John Beg Maccoll depoſes, " That, when Allan Breck came, upon the 11th of May laſt, to Aucharn, the pannel was ſeeing the deponent, John More Maccoll, and Dougal Maccoll, working at potatoes; and that Allan Stewart, the pannel's ſon, was likewiſe there: that, when Allan Breck came, they were all ſitting together; and that he ſeated himſelf by the pannel, and had ſome converſation in Engliſh, which the deponent does not underſtand. Depoſes, That Charles Stewart, ſon to the pannel, and—

" Stewart

" Stewart, daughter to Faſnacloich, came to A
" charn from Faſnacloich a little after the ſa
" Allan Breck.'—And further depoſes, "Tha
" when Allan Breck came back; upon Mond
" the 11th of May laſt, to the place where th
" pannel, deponent, and others, were coverin
" potatoes, as above, they had ſit together b
" for about a quarter of an hour, when the d
" ponent went to work at potatoes at a great d
" ſtance, and before he went away, heard a me
" ſage had come for his maſter to meet Aird
" at Keil, and heard his maſter ſpeak of goi
" there; but when he went, or who went alon
" with him, the deponent does not know: th
" the deponent continued working at the po
" toes till the evening, and the pannel was n
" come home when he came from his wor
" that the pannel came home at bed-time, a
" companied with John More Macilichallan, w
" lay with the deponent that night."

Dougal Maccoll depones, "That when the d
" ponent came home from the wood, upon Mo
" day the 11th of May laſt, the pannel was n
" at home, and the deponent was told, he w
" gone to Keil, to meet the laird of Airds; a
" that the deponent had gone to bed before t
" pannel came home that night; and that ea
" upon Tueſday morning, when the depon
" got up, he ſaw the pannel without, who t
" him, that he was going to Appin's houſe; a
" that, to the deponent's knowledge, Allan Bre
" or the pannel's ſons, were not then up: t
" he ſaw the pannel go towards Letterſhu
" where Appin lives. Depoſes, That Allan Br

"

left Aucharn before the pannel returned from Letterſhuna."

Katharine Maccoll depoſes, "That the pannel went in the afternoon of the day (viz. 11th May) to Keils, to meet Mr. Campbel of Airds; and that it was late at night before he came home; but that the family had not ſupped when the pannel came home; and that the pannel ſupped in company with Allan Breck Stewart, Faſnacloich's daughter, and Archibald Cameron, nephew to Faſnacloich, and the pannel's family."

Archibald Cameron depoſes, "That, upon Monday the 11th of May laſt, the deponent came from Faſnacloich's houſe to the pannel's houſe, after mid-day: that, ſome little time after he came there, he ſaw Allan Breck Stewart: that the pannel was not at home when the deponent came firſt there, but came home before night fell: that the deponent, pannel, Allan Breck, and the family, ſat in one room, and ſupped together: that he did not obſerve Allan Breck and the pannel ſpeak in private that night: that the deponent and Allan Stewart, the pannel's ſon, lay in one bed, and Allan Breck and Charles Stewart, ſon to the pannel, in another bed in the ſame barn: that, to the beſt of his remembrance, they all went to bed much about one time, and got up together next morning: that the deponent did not obſerve the pannel about the houſe next morning when he got up."

And the depoſitions of theſe witneſſes are corroborated by Donald Campbell of Airds, who de-

 poſes,

poſes, That, upon Monday the 11th of May laſ
the "deponent ſent to the pannel, deſiring hi
"to come to him at Keils, a farm belonging
"the deponent, at about a mile's diſtance fro
"the pannel's houſe: that the pannel accordin
"ly came there to him that afternoon, as ſoo
"as he expected him; that the deponent's bu
"neſs with him was for his aſſiſtance in ſettin
"that farm: that the farm was accordingly ſ
"and the pannel himſelf took part of it, a
"conducted the deponent a part of his w
"home, and then they parted: that, before pa
"ing, he deſired the pannel to go next morni
"to Appin's houſe: that the pannel accordin
"did ſo, and the deponent had a letter from h
"from that place."

From what has been ſaid, therefore, it appe
that the proſecutor has not only *not proved*, t
upon the 11th of May there was any thing c
certed with regard to the murder betwixt the p
nel and Allan Breck, but, on the contrary, *
proved, as ſtrongly as the nature of the thing
admit of, that no ſuch thing was or could be c
certed betwixt them at that time; and if th
once eſtabliſhed, it ſaps the foundation upon wh
the whole libel ſtands, as it is not preten
that the pannel and Allan Breck had ever an
ther opportunity of converſing together, bet
Glenure's return from Edinburgh and the tim
the murder.

The third article charged in the indictmen
That, in purſuance of the concert entered into
on the 11th of May, the pannel had furni
Allan Breck with a ſuit of his own cloaths

rder to ſerve as a diſguiſe, that he might be en-
bled to commit the crime with the greater ſafe-
y.

But, in the *firſt* place, it muſt occur to every
an who hears me, that this is a moſt improbable
le; for if it had been intended that Allan Breck
ould be diſguiſed at the time of committing the
ime, it is impoſſible it could be ſeriouſly intend-
, that he ſhould be diſguiſed in a coat belong-
g to the pannel; for however this might have
rved for a diſguiſe to Allan Breck, it might ſerve
ually for a point of evidence againſt the pannel;
d therefore this improbable poſition can gain cre-
with no mortal, unleſs it ſhall firſt be ſuppoſed,
at the pannel is not only the moſt wicked, but al-
the moſt fooliſh among men; which will not be
ily credited by you, who have been witneſſes to
the decent appearance he has made at this
l.

2dly, As the ſtory is improbable, ſo it is equal-
deſtitute of all foundation in truth; for it is
proved by any of the witneſſes, that the pan-
furniſhed or *gave* the cloaths to Allan Breck:
tho' it is proved, that he laid aſide his French
aths, and put on a ſuit of cloaths belonging
the pannel, or his own ſon, upon the Monday
ore the murder; yet it would be ridiculous to
that a party could be convicted as acceſſary to
urder, becauſe that the murderer had on his
aths at the time when the crime was commit-
.

And, laſtly upon this head, the circumſtance
changing the cloaths has been fully accounted
in the former part of the argument; and as
it

it has been clearly proved, that Allan Breck ha
been formerly in uſe of wearing theſe very cloath
the accident of his having them on at the tim
when the murder was committed, can have n
weight againſt the pannel.

The 4th article charged in the libel is, That, up
on the morning of that day upon which the mur
der happened, the pannel had ſent John Be
Maccoll, a ſervant of his own, to Fort-William
in order to watch, and give intelligence concern
ing the motions of the deceas'd: and great pain
have been taken to prove this article.

But, unluckily for the proſecutor, this fact hap
pens to be contradicted by every part of the ev
dence.

In the *firſt* place, it appears, from the oath o
John Beg Maccombich, " That it was know
" over the whole country, that Glenure was
" have been that evening at Kintalline, whic
" lies on this ſide the ferry of Ballachelish; an
therefore, if the pannel's intention had been
watch Glenure's motions, it is natural to aſk, wh
good reaſon there could be to order his ſervant
croſs the ferry, and go on to Fort-William, whe
by waiting at the ferry, he was ſure to get inte
ligence of Glenure's motions?

2*dly*, The fact is contradicted by the depoſitio
of Fergus Kennedy and John Mackenzie, tw
witneſſes alſo adduced for the proſecutor, wh
concur in depoſing, " That John Maccoll m
" Glenure and his company in their way Sout
" ward, about three miles from Fort-William
—If his errand had been to watch and give inte
ligence concerning Glenure's motions, he wou
ha

ave certainly returned immediately, and have iven intelligence accordingly. But, inſtead of his, it appears, from the depoſitions of theſe itgeſſes, compared with the oaths of William tewart and his wife, that John Maccoll did not turn, but went on to Fort-William; which is tterly *inconſiſtent* with what the proſecutor ſupoſes.

And, laſtly, this circumſtance is flatly contraicted by the oath of John Beg Maccoll himſelf, ho expreſsly depoſes, "That, when he went to Fort-William with the above letter to Charles Stewart the notary, he had no orders from his maſter to enquire after the motions of Glenure, or to acquaint any body thereof; but had been nt to Fort-William, in order to bring a notary om thence, to take a proteſt againſt Glenure on the day following: and as that part of his idence is confirmed by the pannel's letter to arles Stewart, produced by the proſecutor; the remarkable haſte with which John Beg accoll went to and returned from Fort-William, arly ſhows, that it was no ſham errand, but t the pannel's real intention was, to proceed in egal way, by taking a proteſt againſt Glenure, aſe he ſhould attempt to execute the ejection.

The next circumſtance charged in the libel is, t when John Mackenzie informed the pannel the murder, he appeared no ways concerned ſurprized; and that neither he, nor his fay, went to look after the dead body.

But as this circumſtance is extremely trifling, he firſt part of it is clearly diſproved, by the n of John Mackenzie, Glenure's ſervant, who depoſes,

depoſes, " That immediately after the murder " he went to James Stewart's houſe in Duror; and " James ſeeing him weeping, aſked what the mat- " ter was? And the deponent told him his maſte- " was killed: whereupon James Stewart aſke- " him, by whom, and how it was done? T- " which he the deponent anſwered, that he di- " not know by whom; and believed it to be " ſhot from a gun or piſtol." And further de- poſes, " That, when he ſaw the pannel at h- " houſe in Aucharn, as aforeſaid, *the pann-* " *wrung his hands, expreſſed great concern at wh-* " *had happened*, as what might bring innocen- " people to trouble, and prayed that innocen- " people might not be brought to trouble." And to the ſame purpoſe, the ſaid John Beg Macc- depoſes, " That, when John Mackenzie inform- " ed the pannel of the murder, he ſaid, *It w-* " *a dreadful accident, and he was afraid it mig-* " *bring trouble on the country*; and appeared *ſor-* " for what had happened."

It is indeed true, that the ſame witneſs has d- poſed, " That neither the pannel, nor any of h- " family went near the dead body." But as th- is a circumſtance of no manner of weight; ſo t- witneſs has accounted for it in a very natural wa- *viz.* That as the deceas'd and the pannel had n- been in good terms together, the pannel did n- chuſe to go to the place where the body lay; a- more eſpecially as he knew that ſome of thoſe w- were to meet Glenure had arms, and it was i- poſſible to know what unreaſonable lengths th- reſentment might carry them: at any rate, ſhows how much the proſecutors are pinched

poi-

point of argument, when they are obliged to found upon it as a circumſtance againſt the pannel, that he did not go from his own houſe, which is about two miles diſtant from the place where the murder was committed, merely to aſſiſt at the funeral of a perſon to whom he was no way related.

The 5th article charged in the libel is, That, upon the ſecond day after the murder, the pannel had ſent five guineas by the packman to Allan Breck, in order to enable him to make his eſcape. As to which, gentlemen, I do admit, that, if at this time the pannel had been in the knowledge that Allan Breck was the murderer of Glenure, his furniſhing him with money, in order to enable him to make his eſcape, might have been conſidered as an offence deſerving puniſhment. At the ſame time, however wrong this would have been, it might have admitted of an excuſe, from the connexion and relation which the pannel had to Allan Breck. And it is now proved, by the concurring teſtimonies of two witneſſes, that the pannel had been left his tutor; and therefore it is much doubted, how far the pannel's ſending money to Allan Breck, though he had known him to be the murderer, would have been puniſhable.

But however the law might have ſtood upon that ſuppoſition, it will not apply to the preſent caſe. The pannel denies he knew any thing of Breck's being the murderer; and as he was well acquainted with his particular circumſtances, of which he has now brought full evidence, by the concurring teſtimonies of many witneſſes, that he had been firſt a deſerter, next a rebel, and was then in the French ſervice; I conceive it was

no

no ways criminal in the pannel to advance thi
trifling ſum, in order to enable him to make hi
eſcape; it was doing no more than what an
good natured man would have done to his frien
in the like circumſtances: and hard will be th
caſe of the pannel, if he ſhall be condemned mere
ly for doing a good natured deed, which had no
thing criminal in it; more eſpecially as he ha
reaſon to believe the meſſage which was ſen
him from Allan Breck, importing, that he ha
no acceſſion to the murder, but judged it pru
dent for him to leave the country, in reſpect
his particular circumſtances, explained as abov

And indeed his Majeſty's advocate does n
ſeem to lay much ſtreſs upon this circumſtanc
by itſelf; but then has attempted to rear up ce
tain arguments tending to ſhow, that the ſendi
of this money muſt have been in conſequence
a previous concert with Breck. And, in the fir
place, it has been ſaid, that the pannel could n
have known to have ſent the money to Koaliſh
coan, if it had not been in conſequence of ſuc
previous concert.

But, with ſubmiſſion, there is a very ſatisfyi
anſwer to this objection, viz. That, upon the da
after the murder, the pannel had received a me
ſage from Allan Breck, informing him where
was, and deſiring him to ſend what money
could ſpare, to enable to make his eſcape. Th
is diſtinctly proved by the concuring teſtimoni
of no leſs than four witneſſes, whoſe depoſitio
as they connect with one another, fall now to
attentively conſidered.

Kathari

Katharine Macinnes depoſes, "That, in the evening of the 14th of May laſt, the deponent ſaw Allan Breck Stewart at a goat-houſe in the moor of Ballacheliſh, after Glenure was killed: that Allan Breck then aſked her, what was the occaſion of the ſtir in the town? and that ſhe told him Glenure was murdered: and further aſked her, who might have committed the murder? and that ſhe told him, ſhe did not know; and that the ſaid Allan further deſired the deponent to tell Donald Stewart in Ballacheliſh to go to the pannel, and deſire him to ſend the ſaid Allan money; and that ſhe delivered this meſſage to Donald Stewart that ſame night; and that ſhe told the ſaid Donald Stewart where ſhe ſaw Allan Breck."

And Donald Stewart the next witneſs depoſes, That, upon the evening of Thurſday the 14th of May laſt, about night-fall, Katharine Macinnes came to the deponent, and told him, that one without wanted to ſpeak with him: that this meſſage came to him in Ballacheliſh's own houſe: that, when he went out, the ſaid Katharine Macinnes told him, that it was Allan Breck that wanted him, and that he was a little above the houſe in the brae: that the deponent went up to the brae, and met Allan Breck, who was then dreſſed in a great coat, and a dark ſhort coat under it, with white metal buttons; the deponent told him of the murder, and ſaid it could not be but that he, Allan Breck, was about it. To which Allan Breck anſwered, that he had heard of the murder, but had no hand in it. To which the de-

" ponent replied, he did not believe him: tha
" the ſaid Allan Breck Stewart told the deponen
" he was going immediately to leave the king
" dom, was very ſcarce of money, and was go
" ing then for Koaliſnacoan, and deſired the de
" ponent to acquaint the pannel, that he wa
" gone to Koaliſnacoan, and deſired him, if po
" ſible, to ſend him money there; and the de
" ponent then promiſed to acquaint James Stew
" art of the above meſſage: that Allan Brec
" ſaid, he believed he would be ſuſpected of th
" murder; and upon that account, *and as he wa*
" *a deſerter* formerly from the army, it was n
" ceſſary for him to leave the kingdom: that, a
" ter the converſation with the pannel about ſe
" jeant More, he delivered the above meſſa
" from Allan Breck to the pannel; and that t
" pannel did not ſay whether or not he was
" ſend the money; and this converſation ha
" pened about ten o'clock in the forenoon
" Friday the 15th of May laſt; and that the
" was no body preſent." And further depoſ
" That, upon the deponent's delivering the
" bove meſſage from Allan Breck to the pann
" the pannel aſked why Allan Breck himſelf d
" not come for money if he wanted it? To whi
" the deponent, to the beſt of his remembran
" replied, that Allan Breck told him, he wou
" be ſuſpected for the murder, and was a d
" ſerter. To which the pannel anſwered, th
" he hoped in God Allan Breck was not gui
" of the murder: that, during the above co
" verſation with the pannel, Alexander Stewa
" Duncan Maccombich, and ſeveral other p

" ſeſſ

ſeſſors of Auchindarroch were in the adjoining field delving, but at ſuch a diſtance, that the deponent cannot think they could hear the above converſation."

From the depoſitions of theſe two witneſſes, hich connect exactly together, it is diſtinctly oved in what manner the pannel came to the nowledge of the place where Allan Breck was: d their depoſitions are further ſupported by the poſition of John Stewart younger of Ballache-h, who depoſes, "That, the day after the murder, the deponent was at the pannel's houſe, who, after twelve o'clock of the day, told the deponent, that he had a meſſage that morning from Allan Breck by Donald Stewart, to ſend him money; but does not remember whether the pannel told him the place where he was directed to ſend it; and the pannel told the deponent, that he was reſolved to ſend him money."

And alſo by the depoſition of Alexander Stewin Auchindarroch, who depoſes, "That, to the beſt of his knowledge, he ſaw Donald Stewart in Ballacheliſh and the pannel together, upon the marches between Aucharn and Auchindarroch, in the morning of the 15th of May; and that he himſelf was at the time digging ground with the other tenants of the Town."

The learned gentleman on the other ſide has n pleaſed to except againſt this part of the evice; that the two material witneſſes are both nected with the family of Ballacheliſh; that o ſome of the facts, they are ſingle witneſſes,

and

and that they do not entirely agree as to the impo
of the meſſage ſent to Donald Stewart by Alla
Breck.

I muſt acknowledge, I am under no ſmall di
ficulty to find out any foundation for the firſt pa
of the objection. It is neither pretended nor pr
ved, that Ballacheliſh is at all related to the panne
and as it cannot be ſaid that any valid objecti
could have been made againſt Ballacheliſh himſe
if he had been produced as a witneſs for the pa
nel, far leſs does any objection ly againſt the ſon-i
law or ſervant of Ballacheliſh, upon account of h
being in the intereſt of the pannel, of whic
however, no ſort of evidence has been brough
And as to the ſecond part of the objection, th
there are not two witneſſes concurring as to t
whole of the facts relative to the meſſage ſent
Allan Breck to Donald Stewart; —the learn
gentleman would do well to obſerve, how mu
of his own proof is founded only upon ſingle
ſtimony; and then let him ſhow cauſe, why
packman and *bouman*, tho' *ſingle* witneſſes, ſhou
be credited, and the like indulgence ſhould not
given to the pannel.

At the ſame time it muſt be obſerved, that
two witneſſes who have depoſed with regard
this meſſage, are not ſingle; they concur as to
material part, that Allan Breck had ſent a meſſ
to the pannel, deſiring him to ſend him a pre
ſupply: and tho' the two witneſſes differ with
gard to the preciſe words uſed by the maid in d
vering Allan Breck's meſſage to Donald Stewa
yet, as they agree in every material circumſtan
no regard ought to be had to trifling variatio

nd it is believed the gentleman on the other de will admit, that the objection would have een full as ſtrong (if not ſtronger) if the two itneſſes had both uſed the ſame words.

And laſtly, as to the obſervation that the witneſs differ among themſelves, as to the preciſe hour hen the packman arrived at Fort-William and deanded the money from William Stewart, it is o-ways ſurpriſing, that, at ſo great a diſtance f time, witneſſes ſhould not be altogether exact to hours and minutes. What appears moſt proble is, that William Stewart and his wife have oth miſtaken the hour, as, from their oaths, neier of them ſeem to be poſitive with regard to at matter: and Stewart the packman ſeems to ve been more attentive to this particular, ſince not only ſwears as to the time when he receid his meſſage from the pannel, which he ſays as about twelve at noon, but alſo as to the time hen he he delivered it to William Stewart, which, the packman ſays, was early in the evening: d as this agrees intirely with the account which onald Stewart gives of the matter, when he ys, "That he delivered Allan Breck's meſſage to the pannel about ten o'clock forenoon;" ſo is plain there could be no concert betwixt theſe o, not only as Donald Stewart is above all ſuicion of that kind, but alſo, as the packman s been kept under cloſe confinement by the procutor, and had no opportunity of converſing th Donald Stewart from the time of the murr till he was produced as a witneſs: and I canot help thinking, that it would ſound ſtrangely ſay, that the proſecutors ſhould be allowed to ve credit to this packman where he ſwears for them,

them, and, at the ſame time, to reject his teſtimo
ny where it happens to make againſt them.

The proſecutor has been pleaſed to lay gre
ſtreſs upon the oath of John Breck Maccoll bou
man; and in particular upon that part of it whe
he ſays, that Allan Breck had deſired him to g
into Fort-William with a letter to William Stewa
in caſe ſome money did not come to him betwi
and next morning; and this, it has been ſai
agrees exactly with the meſſage ſent by the pann
to William Stewart, deſiring him to give credit
5 l. *Sterling* to John Breck Maccoll bouman
Koaliſnacoan, in caſe he came to demand it; a
it is pretended, that this is a clear proof of a pr
vate concert betwixt the pannel and Allan Brec
ſettling the manner in which he was to be ſuppl
ed with money.

But as the whole of this argument is founde
upon the oath of the bouman depoſing to a lon
romantic ſtory, in which he is altogether unſu
ported, I am intitled in law to plead, that h
oath is not to be held as legal evidence againſt t
pannel; more eſpecially as it appears, from wh
has been already ſaid, that his evidence is diſpr
ved in one very material article, in which he d
poſes to a very ſtrong expreſſion, as applied b
the pannel againſt Glenure, at a time when
is proved they were in perfect friendſhip tog
ther.

2dly, The oath of the packman relative to th
article is as little to be relied on; for tho' he h
now depoſed, that the pannel had deſired him
tell William Stewart, not only to ſend him 5.
but alſo to give credit for the like ſum to Joh
Brec

reck Maccoll in Koaliſnacoan, in caſe he came
demand it; yet it is remarkable, that, in the
bel, which it muſt be preſumed was taken from
s own mouth, no mention is made of the 5 l.
r which credit was to be given to the bouman;
d therefore this muſt have been a new diſcovery
ade by the packman ſince printing the libel.
nd it is further remarkable, that this part of the
ckman's evidence is contradicted by the oath of
illiam Stewart, who expreſsly depoſes, That,
the time when the packman delivered his meſ-
ge from the pannel, no mention was made of
e name of Allan Breck; and therefore no ar-
ment can be drawn from any thing either the
ckman or bouman have ſaid upon this matter.

But, 3*tio*, ſuppoſing all the bouman has ſaid to
true, *viz.* That Allan Breck had deſired him to
ry a letter to William Stewart, it will not fol-
w, that he and the pannel were under any pre-
us concert relative to that matter; for as Al-
Breck was acquainted with William Stewart,
d as nearly related to him as he was to the pan-
, it was natural for him to have recourſe to
illiam Stewart to ſupply him in his neceſſity;
d therefore his doing ſo, will not prove that it
s done upon any previous concert with the
nnel. From the commiſſion Allan Breck had
en to Donald Stewart upon the Thurſday e-
ning, he had reaſon to expect that the pannel
uld have ſent him a ſupply with the firſt op-
tunity; and as that had not happened, it was
ural for him to apply to William Stewart, who
s his acquaintance, and as nearly related to
n as the pannel.

The

The learned gentlemen has been pleaſed al
to found upon the poſtſcript ſubjoined to the pa
nel's letter, of the 14th of May, to Charl
Stewart; in which he deſires, " That Willa
" may ſend immediately 8.l *Sterling*, to pay f
" four milk cows he had bought for his uſe
" Ardſhiel:" from which it is inferred, th
before the murder, the pannel was prepari
money to give Allan Breck, in order to enable hi
to make his eſcape. But as that *letter* and *po*
ſcript do not mention the name of *Allan Bre*
nor to what purpoſe the money was intended
be applied, the obſervation does not deſerve a
anſwer: tho' at the ſame time it clearly prov
that the moſt innocent circumſtances have be
laid hold of, and reared up into arguments agai
the pannel.

Thus it appears, that no argument can be dra
from the circumſtance of the pannel's ſendi
money to Allan Breck; as it is not proved, t
the pannel then knew that the murder had be
committed by him; and far leſs is it proved, t
there had been any *previous concert* betwixt th
concerning the ſending of that money before
murder was committed. And indeed, gentlem
it appears to me, that the circumſtances wh
attended the ſending of this money, and in p
ticular the *difficulty* there was in obtaining it, c
not fail to convince every unprejudiced perſ
that this horrid murder had not been commit
in conſequence of any *previous concert* betwixt
pannel and *Allan Breck*; for if that had been
caſe, it is impoſſible to believe, that the mo
would not have been more early provided.

beho

behoved to occur to both parties, that money would be neceſſary to enable the murderer to make his eſcape; and, as it clearly appears, that neither the one nor the other was in caſh, upon Monday the 11th, when the time and manner of committing the murder, is ſuppoſed to have been *concerted*, it is impoſſible, that this important matter of providing the money would not have been inſtantly ſet about, or that it would have been delayed till the hour when the execrable act was to be committed.

The learned gentleman has been pleaſed alſo to lay weight upon another circumſtance, viz. That, ſome days after the murder, two *guns* were found concealed near the pannel's houſe, one of them *loaded*, and the other *unloaded*; and it has been inſinuated, as if the *unloaded gun* was that, with which *Allan Breck* committed the murder. But this circumſtance is really ſo trifling, that it ſcarcely deſerves a ſerious anſwer. It is well known, that the part of the country where the pannel lives, fell under the *diſarming Act*; and therefore it was nowiſe ſurpriſing, that the guns were found *hid*, and that orders were given to *hide* them, at a time, when it was foreſeen, that a ſtrict ſearch was to be made by the *military*; and, tho' one of the guns was *unloaded*, it is a ſtrange ſtretch of imagination, from thence to infer, *without evidence*, that this was the gun with which the murder was committed.

Beſides, it appears, from the oaths of *John Beg* and *Dougal Maccolls*, both witneſſes produced for the *Proſecutor*, that the *little gun* which was found *unloaded*, was in ſuch miſerable bad order at the

time when the murder happened, that it is impo
ſible it could have entered into the head of an
mortal to uſe it for the purpoſe ſuppoſed by th
proſecutor. Dougal Maccoll depoſes, "That he
"the deponent, has no ſkill about guns, but hear
"Allan Breck and Allan Stewart the pannel's ſo
"complain more than once, that the guns wer
"in bad order.

John Beg Maccoll depoſes, "That neither
"the guns were in good order; that the *lar*
"or loaded *gun* was in uſe, when going to
"*ſnapped*, to ſtand at *half-cock*; and that th
"*little gun* was in uſe to *ſnap* or *misfire*: Th
"the little gun had an old wore flint in it, an
"that he obſerved this flint in the ſaid gun, whe
"he was in uſe to ſee it ſtand at the end of th
"*girnel* as above; but did not obſerve wheth
"it had a flint or not, when he took it from u
"der the girnel: that he knows no fault the *lo*
"of the *little gun* had, but its being in uſe
"misfire, and that the lock was on the ſaid gu
"when he hid it on the Friday evening: th
"Allan Breck carried it out one mornin
"and told that it *miſgave* with him thrice at
"black cock, and ſhot with it the fourth tim
"without killing the cock.

And, in like manner, captain *David Chepe*
and *Patrick Campbell* concur in depoſing, That th
little gun, at the time when it was found, was
ſuch bad order, that, for want of a *ſcrew-nail*, t
lock was tied to the *ſtock* by a *ſtring*;—and ther
fore, upon the whole, I leave it to you to judg
how far it is poſſible that a gun in ſuch order wou
have been uſed for the purpoſe ſuppoſed by t
proſecuto

roſecutor ; or that it would have been carried back quickly, as it muſt have been, to the pannel's ouſe, at a time when every perſon was on the atch inquiring about the murder.

And it is of no importance, that neither *John eg* nor *Dougal Maccoll* ſaw this gun, at the time hen the other arms were hid upon the Thurſday ening ; for as neither of theſe two witneſſes ſay at they look'd for it, ſo they have both depoſed, That *Allan Stewart* the pannel's ſon had then told them, that he had hid it below the *girnel*;" d as they accordingly found it ſo hid upon the y following, it removes all ground of *ſuſpicion*, hich might otherwiſe ariſe from the circumnce, that this gun was not hid with the reſt of e arms on the *Thurſday evening*. At the ſame me, the pannel muſt beg leave to ſay, that it ould require ſome explanation how it has happned, that the *lock* of this little *gun* comes to be w miſſing, when ſuch care has been taken to eſerve every other particular which could poſſiy furniſh any handle for an argument againſt the nnel. A good deal of weight has been alſo d upon another circumſtance of the like nature th the former, *viz.* that, upon the day after the urder, *Allan Breck's cloaths* were hid, in conſeence of an order by the *Pannel's wife:* but as is not eaſy to figure how an order given by the nnel's *wife* ſhould have any effect againſt the *nnel*; ſo it is humbly thought that this circumnce may be eaſily accounted for.—It was foren, that, as *Allan Breck* was about to leave the untry, he would be immediately ſuſpected as *ilty* of the murder ; and, as there was great reaſon

ſon to believe that a *ſearch* would be forthwith made in every place where *Breck* was in uſe to viſit, it was natural for the pannel's *wife* to put his cloaths out of the way, that they might not be the occaſion of *ſuſpicion* againſt the *pannel* or his family.

His Majeſty's advocate was pleaſed to found upon the oath of John Maccoll bouman, who depoſes, " That *Allan Breck* had ſaid to him, that " the apprehending of the pannel and his ſon would " not ſignify much; but expreſſed ſome concern " leſt *Allan Stewart*, ſon to the pannel, might " be betrayed by his own tongue." But, as the *bouman* is only *here depoſing* to an expreſſion of *Allan Breck*'s, when he was endeavouring to free himſelf from ſuſpicion; as the *bouman* is at beſt only a ſingle witneſs, and as the expreſſion ſuppoſed to have been uſed by *Allan Breck* does not imply, that either the *pannel*, or his ſon, had been guilty of the murder; this circumſtance, ſuppoſing it true, ought not to be regarded.

And here I cannot omit putting you in mind of one circumſtance depoſed by Alexander Stewart the packman, which ſhows pretty clearly, that no regard ought to be had to the oath of the bouman; and beſides it is ſingle, and not ſupported by other evidence. The packman depoſes, " That " bouman had deſired him to conceal his carrying " the cloaths and money to Koaliſnacoan; to " him that he could not prove it againſt him " *and that he could ſafely depoſe he did not deliver* " *the cloaths to him, ſince he only pointed out where* " *they were.*" I leave to you, gentlemen, to judge, what credit can be given to a witneſs who

whoſe principles were ſuch, as to ſuppoſe that perjury might be evited by ſo poor an evaſion.

It has been alſo ſaid, " that the pannel's wife, his two ſons, and his daughter, have, in ſome things, contradicted each other in the declarations made by them ſeverally at Fort-William."

The pannel cannot help thinking it hard, that *extrajudicial declarations* made by his own *family*, ſhould have been received as evidence againſt him; more eſpecially as it has been hitherto held to be an *eſtabliſhed principle* in our law, not only that *extrajudicial declarations* by third parties cannot be taken, or received as evidence againſt any pannel, but alſo that thoſe who ſtand in the relation of *wife* or *children* to the *pannel*, cannot be received as witneſſes againſt him.

However, as theſe declarations have been allowed to be read in court, tho' objected to by the counſil for the pannel, he muſt acquieſce in the judgment given; but, at the ſame time, I am fully perſuaded, that, upon peruſing theſe declarations, the jury will be of opinion, that the *differences* (if there are any) are ſo *trifling*, that they can have no weight againſt the pannel: and tho' it ſhould be ſuppoſed that the *wife* or *daughter* of the pannel, from a miſtaken notion of *duty* to *parent* and *huſband*, who had been always *indulgent* to them, have endeavoured to conceal that *Allan Breck* went from the pannel's houſe on *Wedneſday* morning, dreſt in a *coat* belonging to the *pannel*; yet, as it has been demonſtrated, it is hoped to your conviction, that there is no ſort of *relevancy* in this circumſtance, it can have no other

ther effect but to ſhow how extremely improp
it is, that ſo *near* relations ſhould be examined
gainſt any man upon trial; but can never be uſe
as an argument againſt the pannel. On the co
trary, gentlemen, I cannot help thinking, th
theſe declarations afford a very ſtrong argume
for the pannel; for as no leſs than ſixteen differe
declarations appear to have been taken from t
pannel himſelf, his wife, and children (one
his ſons having been examined no leſs than fi
different times), it is really *ſurpriſing* that ſo gre
a number of *declarations*, ſigned by different pa
ties, all relative to the ſame matter, ſhould agr
ſo *exactly* together; and, as all the *attention* of t
proſecutor has not been able to draw from theſe
clarations any thing which can ſix the moſt diſta
ſuſpicion of guilt againſt the *pannel*, it tends ſtrong
to fortify the legal preſumption of his i
nocence.

As to the letter wrote by the pannel to Jo
Macfarlane, referred to in the libel, I am ſtill
a loſs to diſcover what argument can be dra
from it; for as that letter (which was wr
ſoon after the murder, and before any adv
tiſement had been publiſhed by the friends of
deceas'd for apprehending Allan Breck) conta
an exact deſcription of Breck's perſon and dr
and alſo of the place where he was moſt lik
to be found, it rather proves for, than againſt
pannel; and it was but natural, at this period,
the pannel to expreſs an anxiety to have Al
Breck apprehended; as it appears from the pro
that before this time it was the *common report*
the country, that the murder had been comm

d by *Allan Breck*; and therefore it behoved *na-rally* to occur to the pannel, that the eaſieſt d ſhorteſt way to obtain his own *liberty*, was to nd out and ſecure the perſon by whom the mur-r was ſuppoſed to have been committed.

The learned gentleman on the other ſide ſtill iſts, that it is not proved, that any other per-n, beſides the pannel, had any quarrel or re-ntment againſt the deceas'd; and it has been rther ſaid, "That if *Allan Breck* was the *actor* in the murder, he was only revenging the quarrel of the *pannel*."

But the weight of this obſervation is fully ta-n off, by the evidence produced for the pannel. is clearly proved by the depoſitions of *Angus Mac-nald*, *Duncan Campbell*, *Robert Stewart* and *Charles ewart*, "That *Allan Breck* had ſworn revenge againſt Glenure, upon a belief, that he had gi-ven information againſt him as a deſerter;" d tho' *Colonel Crawfurd* has depoſed, "That the deceas'd had never given him any ſuch infor-mation," yet this does not at all vary the argu-nt, as it is undeniably proved, that *Allan Breck* l believed, that ſuch *information* had been gi-, and upon that account bore deep reſentment inſt the deceas'd: and therefore, ſuppoſing that murder had been committed by Allan Breck, hich is not admitted) it will not follow, that as done with a view to reſent any *quarrel* the nel might have had with the deceas'd; ſince might have been done with a wicked purpoſe avenging his *own private quarrel:* and, at the e time, it is very proper to be here obſerved, the deceas'd had executed a *warning*, and ob-

tained

tained decreet of *removing* againſt a great ma
of the tenants of *Ardſhiel* and *Lochiel*; and if
is true, that in that part of the country a ſtep
this ſort is conſidered as a cauſe of *mortal hatr*
it was, at leaſt, as much ſo to the *tenants* rem
ved, as it could poſſibly be to the *pannel*; a
therefore it is wrong in the proſecutor to ſay, t
there was no other perſon who had any cauſe
reſentment againſt the deceas'd, but only the *p*
nel; whereas it is plain, that every one of the
nants who had been decerned to *remove* from th
reſpective poſſeſſions, had at leaſt as ſtrong a *ca*
of *reſentment* againſt the *deceas'd*, as that which
libelled againſt the *pannel*; and beſides, I mig
alſo obſerve, that it is proved, by the depoſiti
of the two laſt witneſſes produced for the *pan*
that one *ſerjeant More Cameron* (who in that p
of the country is known to be of a moſt *ab*
doned character) had threatened to *ſhoot* Glenu
or *to be upſides with him*, in caſe he ſhould hap
to meet him.

Upon the whole, gentlemen, I flatter myſ
I have ſhown to your conviction, that all and each
the circumſtances proved againſt the pannel
ſuch, that they can eaſily bear a *good conſtruct*
and might have happened *naturally*, tho' he
been innocent of the crime laid to his char
and when to this it is added, that the *character*
the pannel in *private life*, renders it highly imp
bable that he could have been acceſſary to ſo
a crime, that he could not poſſibly reap any be
fit by it, and that it is proved by *inconteſtabl*
vidence, that, at the very time when the mur
was committed, he was *anxiouſly* purſuing *ano*
meaſ

neaſure, which was utterly *inconſiſtent* with the ſuppoſition of his being any way *acceſſary* to the *murder*; I perſuade myſelf that you will be careful to diveſt yourſelves of any *impreſſions* you may have received *without doors*; that you will judge upon the evidence *impartially* as it lies before you; and that, upon the whole, you will find the pannel *not guilty* of the crime laid to his charge.

At the ſame time, in caſe you ſhall have any difficulty in finding the pannel *not guilty*, or, in caſe you ſhall be of opinion, that there is a ſhadow of *relevancy* in any of the circumſtances proved againſt the pannel, it is your duty to return a *ſpecial verdict* upon the facts proved for and againſt the pannel: and in that caſe you ought to be particularly careful to omit no circumſtance which may have any tendency to *exculpate* the pannel.

Monday 24 *September* 1752, *betwixt ſeven and eight o' clock in the morning.*

"The Lords ordain the aſſize inſtantly to inclоſe in this place, and to return their verdict upon Monday next, the 25th current, at eleven o'clock before-noon; and adjourned the court and hail diets thereof, till that time; and ordain the hail fifteen aſſizers there to attend, and the pannel to be carried back to priſon."

Curia itineris juſticiarii, S. D. N. Regis, tenta a
pud burgum de Inveraray, viceſimo quinto a
menſis Septembris, anno Domini milleſimo ſepti
genteſimo quinquageſimo ſecundo, N. S. per nobile
et præpotentem Principem Archibaldum ducem
Argyll, Dominum Juſticiarium Generalem,
Patricium Grant de Elchies, armigerum, et D
minum Jacobum Ferguſon de Kilkerran, Domi
Commiſſionarios Juſticiarii dicti, S. D. N. Reg

Curia legitimè affirmata.

Intrat. The above James Stewart pannel.

The perſons, who paſſed upon the aſſize of
ſaid James Stewart, returned the following verd
" *At Inveraray the 24th day of September* 17
" *years, new ſtile,* the above aſſize, having
" cloſed, did make choice of the ſaid C
" Campbell of Skipniſh to be their chancel
" and James Campbell late bailie of Inverara
" be their clerk; and, having conſidered the
" minal letters purſued at the inſtance of Will
" Grant of Preſtongrange, Eſq; his Maje
" advocate, for his Majeſty's intereſt, and al
" the inſtance of Janet Mackay, daughter to
" honourable Hugh Mackay of Bighouſe,
" and relict of the deceas'd Colin Campbel
" Glenure, for herſelf, and on behalf of
" liſabeth and Lucy Campbells, her infant
" dren, with concourſe of his Majeſty's advo
" for his Majeſty's intereſt; againſt James Ste
" pannel: the Lord Juſtice General, and L
" Commiſſioners of juſticiary their interlo
" there

" thereupon, with the depoſitions of the witneſſes adduced for proving thereof, and depoſitions of the witneſſes adduced for the pannel, together with the writings, and other particulars contained in the inventary ſubjoined to the libel, and the writings produced for the pannel; find unanimouſly, the pannel James Stewart guilty, art and part, of the murder of Colin Campbell of Glenure. In witneſs whereof, our ſaid chancellor and clerk have ſubſcribed theſe preſents in our names, and in our preſence, place, and date above written.

(Signed) COLIN CAMPBELL chancellor.
JA. CAMPBELL clerk.

After reading this verdict, the court proceeded to give judgment; which, being written down in the book, and ſigned by the whole judges, was read by the clerk, and, in the uſual manner, repeated pronounced by the dempſter to the pannel as follows,

" The Lord Juſtice General, and Lords Commiſſioners of juſticiary, having conſidered the verdict of aſſize, of date the 24th current, according to the preſent ſtile, returned this day againſt James Stewart pannel, whereby he is found guilty, art and part, of the murder of Colin Campbell of Glenure; they, in reſpect thereof, by the mouth of John Mackenzie dempſter of court, decern and adjudge the ſaid James Stewart to be carried back to the priſon of Inveraray, and therein to remain till the fifth day of October next, according to the preſent ſtile; and then to be delivered over by the magiſtrates of Inveraray and keeper of the ſaid

" priſon

" priſon, to the ſheriff-depute of Argyleſhire, o
" his ſubſtitutes; and to be by them tranſporte
" to the ſhire of Inverneſs, and delivered over t
" the ſheriff-depute of Inverneſs, or his ſub
" ſtitutes; and to be by them tranſported to Fort
" William, and delivered over to the governo
" deputy-governor, or commander in chief, fo
" the time, of the ſaid garriſon, to be by ther
" committed to priſon in the ſaid fort, therein t
" remain till the 7th day of November next, ac
" cording to the preſent ſtile; and then again t
" be delivered over to the ſheriff-depute of In
" verneſsſhire, or his ſubſtitutes; and to be b
" them tranſported over the ferry of Ballachelish
" and delivered over to the ſheriff-depute o
" Argyleſhire, or his ſubſtitutes, to be by ther
" carried to a gibbet to be erected by the ſai
" ſheriff on a conſpicuous eminence upon th
" ſouth-ſide of, and near to the ſaid ferry: an
" decern and adjudge the ſaid James Stewart, u
" on Wedneſday the 8th day of November nex
" according to the preſent ſtile, betwixt th
" hours of twelve at noon and two afternoo
" to be hanged by the neck upon the ſaid gibbe
" by the hands of an executioner, until he b
" dead; and thereafter to be hung in chains upo
" the ſaid gibbet; and ordain all his moveab
" goods and gear to be eſcheat and inbrought t
" his Majeſty's uſe; which is pronounced fo
" doom."

(Signed) ARGYLL.
P. GRANT.
JA. FERGUSON.

After which the Lord Juſtice-General ſpoke to
e pannel to the following effect.

AMES STEWART, you have had a very long
and moſt impartial trial: you have been pro-
cuted with all the moderation conſiſtent with
e crime you ſtood accuſed of; and your counſel
ve defended you with great ability, and with
cency. The jury have unanimouſly found you
ilty of having been acceſſary to this horrid mur-
r, which, upon due conſideration of all circum-
nces, ſeems to be according to the evidence.
My brethren, in delivering their opinions, have
leavoured to make you ſenſible, how heinous
e crime is of which you ſtand convicted; a baſe
d moſt infamous murder and aſſaſſination, in
iance of the laws of God and man, and the
mmon principles of humanity! I muſt add one
cumſtance more, which aggravates your guilt;
d that is, your ingratitude to that gentleman,
o, by your means, is now no more. You had,
your artifices, got into his confidence, before he
d time to be well informed of the circumſtances
he eſtate of which he was appointed Steward.
is confidence you abuſed ſo much, as to raiſe
ns of money from the tenants for your own
poſes: but when, in obedience to the orders
is ſuperiors, he was removing you and others
m the farms they did poſſeſs, then, according
to

B. When the ſentence was pronounced againſt James Stewart
veraray, the Gentlemen who attended the trial the preceeding
having been all tired with it, did not take notes the laſt day.
as far as they can recollect, the ſubſtance of what the Lord Ju-
General then ſaid to the pannel, was as is above ſet down.

to the malice always prevailing in uncivilized par
of the Highlands, your inveterate hatred begar
ſo that it may be ſaid of you, That you firſt e
his bread, and then ſhed his blood.

To trace your crime from its true original ſourc
I will uſe the words of our Statute-book, *Th*
barbarous cruelties and lawleſs oppreſſions practiſed
the Highlands during ſeveral centuries, again
which the laws made ſo long ago as the ye
1587, and inforced in 1690, were ſo ſevere, t
the clans were bound to deliver hoſtages, as ſec
rities for the peace, who were even to be put
death, if no redreſs was made. To this I m
add that obſtinate and almoſt incureable diſ
fection and averſion to the government in ſeve
Highland clans, and in particular your own, e
ſince the happy Revolution, and the eſtabliſhm
of the crown in the Proteſtant line.

In the year 1715, there broke out a moſt u
natural and unprovoked rebellion, ſoon after
acceſſion of his late Majeſty to the throne;
which the part your clan acted is well known,
many being here preſent that were witneſſes
their compoſing part of the rebel-army, wh
beſieged this town. This I myſelf have reaſon
know. A Royal indemnity ſoon followed a
thoſe treaſons then committed: but, in the y
1719, your clan, unmindful of their lives
fortunes having been granted them only two ye
before, did again riſe in rebellion, and aſſiſte
foreign enemy in an invaſion: in this you are
to have acted a part, though at that time
young.

In the year 1745, the reſtleſs ſpirits of the diſaffected Highlanders again prompted them to raiſe a third rebellion, in which you and your clan formed a regiment in that impious ſervice, and in which you perſevered to the laſt. The divine Providence at firſt permitted you to obtain ſome advantages, which has poſſibly been to give you time to repent of your crimes. But who can dive into the ſecrets of the Almighty! At laſt Heaven raiſed up a great Prince, the ſon of our gracious king, who, with courage equal to that of his anceſtors, and with conduct ſuperior to his years, did, at one blow, put an end to all your wicked attempts.

If you had been ſucceſsful in that rebellion, you had been now triumphant with your confederates, trampling upon the laws of your country, the liberties of your fellow-ſubjects, and on the Proteſtant religion: you might have been giving the law, where you now have received the judgment of it; and we, who are this day your judges, might have been tried before one of your mock courts of judicature, and then you might have been ſatiated with the blood of any name or clan to which you had an averſion.

I have thought it my duty to put you in mind of theſe facts, only to mark out thoſe wicked paths which have led you to deſtruction: and tho' you don't now ſtand accuſed as a rebel, nor am I permitted to call you a traitor, becauſe his Majeſty's undeſerved mercy to you did ſeveral years ago reſtore you to the ſtate of an innocent man; yet I may ſay, with great force of truth, that this murder

murder has been visibly the effect and consequen of the late rebellion.

You may yet, during the short time you have live, be of great service to your friends and neig bours, by warning them against those princip and practices which have brought you to this u timely end; and may the Lord have mercy up your soul.

Immediately after sentence of death had pass upon James Stewart, and the Lord Justice-Gen ral had ended his speech, the pannel said,

MY Lords, I tamely submit to my hard senten I forgive the jury, and the witnesses, who ha sworn several things falsely against me: and I decla before the great God, and this auditory, that I h no previous knowledge of the murder of Colin Camp of Glenure, and am as innocent of it as a child u born. I am not afraid to die; but what grieves m is my character, that after ages should think me c pable of such a horrid and barbarous murder.

Thereafter the pannel was ordered back to pris

ERRATA.

Page 32. *line* 15. *for* of *read* in. *l.* 24. *f.* human *r.* huma *p.* 33. *l.* 4. *f.* on *r.* for. *p.* 36. *l.* 9. *f.* of names or perso from names or personal prejudices. *l.* 18. *f.* country *r.* cou *l.* 18. after their *r.* more particular. *p.* 37. *l.* 31. *f.* he *r.* Gl ure. *p.* 39. *l.* 22. *f.* his *r.* the. *p.* 40. *l.* 5. *f.* parts *r.* p *p.* 41. *l.* 3. *f.* keep *r.* help. *l.* 28. *f.* that *r.* these. *p.* 42. *l f.* or *r.* and. *l.* 7. *f.* execute *r.* executed. *p.* 44. *l.* 2. were. *p.* 45. *l.* 17. *f.* go *r.* gone. *p.* 48. *l.* 20. *f.* wrest *r.* torturing. *l.* 24. *f.* a *r.* the. *p.* 50. *l.* 22. *f.* the *r.* t *p.* 51. *l.* 17. *f.* constructed *r.* construed. *l.* 24. after suffe death. *p.* 78. *l.* 16. *f.* eædem fuisse *r.* cædem fecisse.

APPENDIX, *p.* 17. *l.* 23. *f.* the fore-named *r.* Ar bald Campbell Sheriff-substitute of Argyleshire.

APPENDIX.

CONTAINING

The WHOLE PROOF brought in the preceeding Trial, both on the Part of the Proſecutors, and on the Part of the Pannel.

WITH

The WRITINGS produced and read in Preſence of the Jury, as Evidence for either Party.

AND

A LIST of Witneſſes cited by the Pannel.



James Stewart pannel does admit the truth of all the writings contained in the inventary of writings ſubjoined to the criminal letters, and which inventary was delivered to him at executing the ſaid letters againſt him, excepting two of the ſaid writings which he does not admit, *viz.* the writing, number 7. intitled, Principal holograph letter by Allan Stewart, ſon to the ſaid James Stewart, addreſſed to Duncan Stewart of Glenbuckie, dated at Aucharn the 1ſt of April 1752; and the writing, number 12. intitled, Draught, letter by the ſaid James Stewart, and of an inſtrument of proteſt at the tenants inſtance, relative to the ſaid decreet of removing and ſuſpenſion thereof: but the ſaid draught letter and inſtrument, being again ſhown to the pannel in court, the pannel admits the truth and authenticity of theſe alſo: and therefore admits the truth of the whole writings, except the writing before mentioned, number 7. but does not admit the writings ſubjoined to the ſaid inventary, being two principal declarations by Allan Stewart, ſon to the ſaid James Stewart, five principal declarations by Charles Stewart, alſo ſon to the ſaid James Stewart, three principal declarations by Margaret Stewart, ſpouſe to the ſaid James Stewart, and two by Elizabeth Stewart, his daughter.

(Signed) JAMES STEWART. P. GRANT.

Thereafter the proſecutors, for proving the above criminal libel, adduced the following witneſſes.

Mr.

Mr. *Archibald Campbell* of Stonefield, ſheriff-depute of the ſhire of Argyll, aged fifty ſix years, married, being ſolemnly ſworn, purged of malice, partial counſel, examined and interrogate and being ſhown the writings following, *viz.* four principal declarations by Charles Stewart ſon to the pannel, bearing to have been emitted in the deponent's preſence, and dated the 22d, 23d and 25th days of May laſt, and three declarations by Margaret Stewart ſpouſe to the pannel and two declarations by Elizabeth Stewart his daughter, all of them bearing to have been emitted in the deponent's preſence, as ſheriff of Argyllſhire, and dated the 22d and 25th days of May laſt; depones, That all theſe declarations were emitted by the reſpective perſons therein mentioned, in preſence of the deponent, and of the reſpective dates therein contained, and were all ſubſcribed by the reſpective declarants in the deponent's preſence, excepting only that the declarations by the ſaid Margaret Stewart and Elizabeth Stewart were not ſigned by them, but were ſigned by the deponent for them, becauſe they declared they could not write. And there being alſo ſhown to the deponent two declarations by Allan Stewart ſon to the pannel, bearing to have been emitted in preſence of George Douglas ſheriff-ſubſtitute of Inverneſs, dated the 3d of June laſt, and a declaration bearing to be emitted by the ſaid Charles Stewart ſon to the pannel, in preſence of the ſaid George Douglas ſheriff-ſubſtitute, dated the 4th of June laſt, depones That the deponent was preſent, and ſaw and heard the ſaid declarations by the ſaid Allan and

Charles

Charles Stewarts, emitted in preſence of, and taken down in writing by the ſaid ſheriff-ſubſtitute, and they were, at the ſheriff-ſubſtitute's deſire, dictated by the deponent to the clerk, and the deponent ſaw the ſaid declarations ſubſcribed by the ſaid Allan and Charles Stewarts *reſpectivè*, of the ſeveral dates therein contained, voluntarily and freely, without any compulſion or coaction. *Cautum ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(*Signed*) ARCH. CAMPBELL, P. GRANT.

After emitting of the above depoſition by Mr. Archibald Campbell of Stonefield, to ſave the time of the court, in bringing further proof of the declarations therein mentioned, the pannel judicially declared, that he admitted the truth of all the ſeveral declarations contained in the ſaid oath, that is, that theſe declarations were emitted by the reſpective perſons therein mentioned, and in preſence of the reſpective judges, and at the reſpective times therein contained, voluntarily and freely; but does not admit the truth of the facts as declared by the ſaid declarants.

(*Signed*) JAMES STEWART, P. GRANT.

Mungo Campbell writer in Edinburgh, aged twenty four years, unmarried, ſworn, purged and examined *ut ſupra*, depones, That, in the beginning of May laſt, the deceas'd Colin Campbell of Glenure applied to the deponent, to go with him to Lochaber, to aſſiſt him in conducting the executing of ſome of the tenants of the eſtate of Stewart of Ardſhiel, and of the tenants of Mamore, part of the eſtate of Lochiel, over which the

the ſaid Colin Campbell was factor, and whic
tenants, he apprehended, would not voluntari
remove, without being legally ejected: that th
ſet out from Edinburgh together, upon the 7th
May laſt, and arrived at Glenure upon Saturd
the 9th of that month: that they ſet out togeth
for Fort-William upon Monday the 11th abo
ten o'clock forenoon, and remained at Fort-Wi
liam till Thurſday the 14th, when they returne
in order to execute the next day the ejection
gainſt ſome of the tenants of Ardſhiel: tha
when they came to the ferry of Ballacheliſh, t
defunct waited there about an hour, communi
with ſome of the tenants, and croſſed the fer
betwixt four and five in the afternoon: that, a
ter croſſing the ferry, Alexander Stewart of Ba
lacheliſh, elder, met with the defunct, and th
travelled together on foot about the ſpace of ha
a mile, till they came to the ſkirts of the woo
of Lettermore: that, while they were comm
ning together on foot, the doponent was at ſom
little diſtance before them on horſeback, and t
ſheriff-officer Donald Kennedy was on foot b
fore the deponent, and Glenure's ſervant Jo
Mackenzie was on horſeback a little before Gle
ure; and, the ſervant happening to drop a co
Ballacheliſh called to him, and the ſervant retur
ed, and thereby fell behind Glenure and Ballach
liſh: that Ballacheliſh parted from Glenure
their entering into the wood of Lettermore,
the wood of Ballacheliſh, a part of the wood b
ing called by that name; and Glenure mount
his horſe, and came up to the deponent: th
the deponent aſked Glenure, whether Ballach
liſh had ſaid any thing to him touching removi

he tenants? and Glenure ſaid, that nothing paſs'd betwixt them, on that ſubject: that, coming to a part of the road that was rough and narrow, ſo as they could not ride conveniently two horſes a-breaſt, the deponent and Glenure ſeparated, and the deponent went before, and might have been about twice the length of the room where the court now ſits before Glenure, when the deponent heard a ſhot behind him, and heard Glenure ſeveral times repeat theſe words, Oh! I am dead. Depones, That the deponent thereupon returned to Glenure, and heard him repeat the ſame words; and thinks, but is not poſitive, that he added, Take care of yourſelf, for he's going to ſhoot you: that the deponent immediately lighted, and run up the hill from the road, to ſee who had ſhot Glenure, and ſaw, at ſome diſtance from him, a man, with a ſhort dark-coloured coat, and a gun in his hand, going away from him; and, as the deponent came nearer him, he mended his pace, and diſappeared by high ground interjected betwixt him and the deponent; and he was at ſo great a diſtance, that the deponent thinks he could not have known him, tho' he had ſeen his face: that the deponent thereupon returned to Glenure; and, either at that time, or before, the deponent run up the hill as above, depoſed, (the deponent cannot be poſitive which) that took Glenure from off his horſe. Depones, that, after taking Glenure from his horſe, he leaned a little upon the deponent's ſhoulder, and endeavoured to have opened his breaſt, to ſee where the bullets, wherewith he was ſhot, came out of his body, but was not able; but ſaw, in his ſhirt-coat, two holes in his belly where the bullets

lets had come out. Depones, That Glenure in
tended to have been that night at Kintallin
where he expected Mr. Campbell of Ballieveola
was to meet him; wherefore the deponent ſen
Mackenzie, the ſervant above mentioned, forwar
to Kintalline, to acquaint Ballieveolan what ha
happened, and to bring him to his aſſiſtance: tha
Glenure continued in agonies for about half a
hour or a little more, after ſending off Mackenzi
and then died; and, night coming on, and n
appearance of Mackenzie's returning, the depo
nent ſent back the ſheriff-officer above named
Ballacheliſh, to deſire Mr. Stewart's aſſiſtanc
and ſome of his people: that, in little more tha
an hour, Ballacheliſh, and ſome of his peopl
with the ſheriff-officer, came to the deponen
aſſiſtance, and carried Glenure's corps that nig
to Kintalline, by ſea; and, next day, carried
to Glenure, where ſome ſurgeons came, and i
ſpected his body; and the deponent ſaw there t
two wounds in his belly made by the balls comi
out of his body. Depones, That when the dep
nent laid Glenure upon the ground, a great de
of blood iſſued from his body, and his cloat
were all ſtained with blood, particularly the ſm
of his back, having been laid on his back up
the ground: that Mackenzie the ſervant alſo
turned, before they carried the corps off t
ground, and ſome people with him, particula
Ballieveolan's ſons; and, being ſhown a coat a
waiſt-coat, and a ſhirt, depones, That theſe
the coat and veſt that Glenure had on when he w
murdered; and believes alſo, it is the ſame ſh
Depones, That, at the place where Glenure w
ſh

ſhot, the wood is pretty thick on both ſides, and, on the ſide from which he was ſhot, very rugged and ſtony, and buſhes in which the murderer could have eaſily hid and concealed himſelf: that the ground there riſes up hill towards the ſouth, tho' there are places in it where the murderer might be pretty nearly upon a level with Glenure; and there are alſo places there ſo ſituate as a perſon ſtanding there might ſee the moſt part of the road from the ferry to the wood, and even a part of the road betwixt Fort-William and the ferry; and which place is not a muſket ſhot from the ſpot where Glenure was murdered. Depones, That, neither the defunct nor the deponent, nor any of their company had any ſort of arms with them. Depones, That it was betwixt five and ſix o' clock in the afternoon, as he thinks, when Glenure was murdered as aforeſaid; and remembers when Glenure was dying, the deponent look't at his own watch, and found it was then about ſix o' clock. And depones, That, upon recollection, he cannot be poſitive whether he obſerved both the wounds in the defunct's belly, or only one of them; and being interrogate for the pannel, depones, That, ſome days after the murder, the deponent ſent a ſerjeant and a party of ſoldiers to the pannel's houſe at Ardcharn, with orders to ſearch, and particularly to ſearch for writings: that the ſerjeant reported to the deponent, that he had ſearched and delivered to the deponent one paper which he found there, being a ſcroll of a letter by the pannel, and an inſtrument of proteſt being the number of the inventary ſubjoined to the libel,

and which is now in the clerk's hands, and being ſhown to the deponent, depones, That it is the ſame writing that was delivered to him by the ſerjeant. Depones, That the ſerjeant gave him no more papers but that one; and ſaid that he had brought away no more. *Cauſa ſcientiæ patet.* And this is truth as he ſhall anſwer to God.

(Signed) MUNGO CAMPBELL. P. GRANT.

John Mackenzie, late ſervant to Glenure, unmarried, aged nineteen years, witneſs cited, ſworn, purged and examined *ut ſupra*, depones, That upon the 14th of May laſt, he came, with his maſter the deceas'd Colin Campbell of Glenure, from Fort-William, by the horſe-road leading to the ferry of Ballacheliſh, which road coincides, a little way next to Fort-William, with the new road commonly called the king's road: that they paſs'd the ferry of Ballacheliſh, and came along the high road, which leads to Kintalline thro' the wood of Lettermore: that, coming up with Alexander Stewart elder of Ballacheliſh, who was on foot, Glenure alighted from his horſe to walk a little with Ballacheliſh, and deſired Mungo Campbell writer in Edinburgh, who was in company with Glenure, as alſo the deponent, to ſtay on; which accordingly they did; but coming up to a place where they were ſtopt by the tide, they were obliged to alight, and lead their horſes acroſs a rock; and, upon that occaſion, and by which means it happened that the deponent dropt a great coat belonging to Donald Kennedy ſheriff officer, who was alſo along on foot, and which he had got from him to carry when they paſſed the ferry;

of Ballacheliſh, and Glenure and Ballacheliſh coming up, and finding the great coat lying on the road, one or other of them cry'd out, To whom this coat belonged? Which the depo-nent, being within diſtance to hear; ſaid, It be-longed to Donald Kennedy, and that he had been carrying it, and had dropt it; whereupon he re-turned to fetch the coat, by which means Glen-ure, who had parted with Ballacheliſh at the ock that has been juſt mentioned, got before the eponent, and, when about a muſket ſhot before im in the wood of Lettermore, he heard a ſhot which he took to be from a firelock, which he id not much mind nor know from what quarter had come, but when he came up he ſaw Mungo Campbell wringing his hands, and his aſter lying on the ground with a great deal of lood about him, juſt breathing, and not able to eak; and Donald Kennedy the ſheriff officer as at that time ſtanding by him, and, as near as e deponent could gueſs, this was about five o' ock in the afternoon. Depones, That Mungo ampbell directed the deponent to ride forward ith all ſpeed to Kintalline, and to ſee if John ampbell of Ballieveolan or his ſons were there; d, if they were, to acquaint them what had ppened, and to come up immediately; accor-ngly he went, but found neither Ballieveolan r his ſons there; but being told by one of the nants of Achindarroch, that probably James ewart in Aucharn, who is now the pannel, might ve him ſome account of Ballieveolan: that accor-ngly he went to James Stewart's houſe in Du-r; and James ſeeing him weeping, aſked what

the

the matter was? the deponent told him his maſte
was killed; whereupon James Stewart aſke
him, by whom and how it was done? to whic
he, the deponent, anſwered, that he did not kno
by whom, and believed it to be by a ſhot from
gun or piſtol: that the deponent then aſked hi
what was the neareſt road to Glenduror, whe
he expected to find Ballieveolan? which acco
dingly James Stewart having pointed out to hi
he followed; and meeting with one Allan Do
whom he had ſeen ſeveral times before, he pr
vailed with him to go to Glenduror, and acqua
Ballieveolan of what had happened, and to def
him to come up where his maſter was, a
which the ſaid Allan Dow could do more expe
tiouſly on foot, than the deponent could do in th
croſs-way on horſeback; and the deponent i
mediately returned where his maſter lay, a
brought no perſon along with him: that
maſter was then dead, and that the people of B
lacheliſh were at this time come up, and w
ſtanding about him. Depones, That he was th
ſent off a ſecond time with a horſe by the r
Ballieveolan was expected to come, in order
haſten him, and having accordingly met Bal
veolan, he, at Ballieveolan's deſire, went and
quainted Captain Campbell younger of Barcald
of what had happened. Depones, That when
maſter and he came, as has been ſaid, from F
William, on the 14th of May laſt, they met
foreſaid John Maccoll going to Fort-William
the foot of the three mile water, which is ab
three miles from Fort-William; and that the
Maccoll came to the ferry of Ballacheliſh m
ab

about the ſame time with the deponent; but before Glenure who had ſtayed ſometime talking with the tenants of Ballacheliſh; and further adds, that his maſter had ſtayed at Corrychorrachan, which is about five miles from Fort-William, about an hour and a half or two hours. Depones, That, when Maccoll deſired the ferryman to carry him over, the ferryman begged to be excuſed till Glenure's horſes ſhould go over; and that he was then employed in gathering wreck: but Maccoll would not delay; and accordingly was ferryed over, as he thinks, about half an hour before Glenure, whoſe horſes were firſt ferryed over, and along with them the ſheriff officer, and afterwards Glenure and Mungo Campbell. And depones, That neither Glenure nor any in his company had arms of any ſort along with them; and a coat, waiſtcoat and bloody ſhirt referred to in the liſt of evidence being ſhown to the deponent, depones, That they were the very cloaths and ſhirt Glenure had on when he was killed as aforeſaid. And further depones, That, when he ſaw the pannel at his houſe in Aucharn as aforeſaid, the pannel wrung his hands, expreſs'd great concern at what had happened, as what might bring innocent people to trouble, and pray'd that innocent people might not be brought to trouble; and being interrogate for the pannel, depones, That, beſide that road by which he and his maſter came from Fort-William to Ballacheliſh, there is another road by which people travel, both by horſeback and on foot, which is computed to be the ſhorteſt by a mile, and by which he ſuppoſes Maccoll came.

came. *Cauſa ſcientiæ patet.* And this is truth as he ſhall anſwer to God.

(Signed) JOHN MACKENZIE. JA. FERGUSON

Donald Kennedy ſheriff-officer in Inverary, married, aged forty eight years, witneſs cited, ſworn purged, and examined *ut ſupra*, depones, That upon the 11th day of May laſt, he was employed by James Campbell writer in Inverary, to carry a pacquet to Glenure, then at Fort-William, and when he delivered the pacquet to him told him, that it contained a warrant for ejecting certain poſſeſſors of the lands of Ardſhiel: that upon the 13th day of May, he came to Marburgh or Fort-William, where he found the deceas'd Glenure, and delivered the pacquet to him who told him, as James Campbell had before done, what the pacquet contained; and that he the deponent, was to be employed in executing the ejection: that, upon the 14th day of May Glenure, as alſo the deponent, left Fort-William and, at Glenure's deſire, the deponent went before, being on foot, and waited at the ferry of Ballacheliſh till Glenure came up to him: that Glenure croſſed the ferry from the North to the South of Appin ſide, and along with him a young gentleman Mungo Campbell, ſaid to be a writer in Edinburgh, and his own ſervant John Mackenzie: that Mackenzie and the horſes were firſt over: that the boat again returned and brought over Glenure, Mungo Campbell and the deponent: that the deponent being on foot, as has been ſaid, went on the high road leading to Kintalline, where he underſtood Glenure intended

d to quarter that night, but was paſt on the
ad by Glenure, Mungo Campbell, and Glen-
re's ſervant, whom the deponent could not keep
with; but as Glenure happened to find, upon
e road, Alexander Stewart elder of Ballacheliſh
foot, he lighted from his horſe, and walked
little on the way with Ballacheliſh, whereby
e deponent got the ſtart of Glenure, and the
o riders that were in company with him, and
e deponent walking on thro' the wood of Let-
more, and after he was about half a mile, or ſo
thin the wood, he heard a ſhot, and at the ſame
e heard the aforeſaid Mungo Campbell make a
eat noiſe as of one weeping, the deponent being
that time but about two penny ſtone caſt be-
e the ſaid Mungo, who was riding foremoſt,
he afterwards told the deponent; the deponent
mediately upon hearing the noiſe returned, for
had gone a little without minding the ſhot,
once he heard the noiſe, and when he came
k to Mungo Campbell, Mungo ſaid to him,
e villain has killed my dear uncle, adding,
t he had only ſeen one man; and that he, the
onent, aſked no queſtions, being in confuſion,
dreading for the ſame fate himſelf. Depones,
at he ſaw Glenure lying upon the ground,
h great plenty of blood about him, and, as
breaſt of his waiſtcoat had been opened be-
the deponent came up, he ſaw a hole in his
t, thro' which he ſuppoſed a bullet had come;
that the deponent ſtaid at the place till Glen-
expired. Depones, That John Mackenzie,
nure's ſervant, was diſpatched by Mungo
pbell to the houſe of Kintalline, where Glen-

ure

ure was to lodge that night, and Ballieveolan a
long with him, with orders to bring Ballieveo
lan, and ſome other gentlemen that were expect
ed to be there; Mungo Campbell alſo deſired th
deponent to go for other people, which the de
ponent at firſt declined, giving this reaſon for i
that he would ſtay and run the ſame riſque wit
Mungo Campbell, but at laſt was prevailed upo
to go by Mungo Campbell, whom he left alo
with the corpſe, and the deponent brought A
lexander Stewart elder of Ballacheliſh, and ſev
ral other people of the town of Ballachelif
Depones, That while Glenure and his compa
were at the ferry of Ballacheliſh, as aforeſaid,
ſaw a man who ſeemed to be in a hurry to g
over the ferry, who proved to be John Macco
ſervant to the pannel; to whom Glenure ſa
in the deponent's hearing, Sir, you travel bet
than I do. To which he anſwered, I am
a haſte, and ſo went over the ferry about
hour before Glenure paſt it, who had ſome b
ſineſs to do with tenants there. Depones, Th
when the people were gathered about the corp
as aforeſaid, the ſaid John Maccoll was amo
them. And Mungo Campbell then told the
ponent, that when Glenure and he were co
three miles from Fort-William, they met the
John Maccoll going to Fort-William, and
he was back at the ferry of Ballacheliſh, tho'
foot, as ſoon as they. Depones, That Glen
was ſhot about half an hour after five in the
vening, and died, as he thinks, about ſix, Mu
Campbell having then looked his watch.
pones, That this John Maccoll was none of

ped

people that this deponent had called upon: that the corpſe were carried that night to Kintalline by water, the place where they lay being but a ſhort diſtance down thro' a rugged part of the road towards the loch. And being interrogate for the pannel, depones, That there are two roads leading from Fort-William to the ferry of Ballacheliſh, one of them being a horſe-road by which Glenure came, the other a foot-road, which is the ſhorteſt of the two by about a mile. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God. And being further interrogate for the purſuers, depones, That neither Glenure, nor any in his company, had arms allowing with them of any kind. And being alſo further interrogate for the pannel, depones, That John Maccoll was at the ferry before Glenure came up. And this is truth, as he ſhall anſwer to God.

(Signed) DANIEL KENNEDY. JA. FERGUSON.

John Roy Livingſtone, alias *Macanure*, in Ballacheliſh, married, aged forty, who being ſworn by the fore-named ſworn interpreter, purged of malice and partial counſel, depones, That, upon Thurſday the 14th day of May laſt, he ſaw Allan Breck Stewart in Ballacheliſh, in the forenoon, dreſſed in a dunniſh big coat; but had no converſation with him: that, upon the evening of the ſaid day, he ſaw John Beg Maccoll, ſervant to the pannel, travelling at a good rate from the ferry of Ballacheliſh, towards his maſter's houſe. The deponent joined him upon the high road, and aſked him where he had been? To which

John Maccoll replied, that he had been at Ma
ryburgh for Charles Stewart notary-publick, bu
did not find him at home: that, during this con
verſation, the deponent travelled the road alon
with the ſaid John Maccoll, and only ſtopt for
very ſhort time; and that the ſaid John Macco
told the deponent, that Glenure that night wa
to be at Kintalline. Depones, That, about a
hour and a half, or two hours thereafter, the de
ponent went to the wood of Ballacheliſh, adjoi
ing to Lettermore, to cut ſome ſticks he wante
that, while he was in the wood, he ſaw Dona
Kennedy ſheriff-officer at Inverary, paſſing alon
the high road below him, and a little after hi
Mungo Campbell, and John Mackenzie, Gle
ure's ſervant, and a little after them Glenure
horſeback, and Alexander Stewart elder of Ball
cheliſh along with him; and, as the deponent o
ſerved Glenure and Ballacheliſh, they found a b
coat upon the high road, and called to the ſa
John Mackenzie the ſervant, and the ſerva
came back for the big coat, and Glenure and Ba
lacheliſh parted: that the deponent came dow
to the road, and entered into converſation wi
the ſaid John Mackenzie, and, after a few queſ
ons, the ſaid John Mackenzie went on after
maſter; and immediately thereafter the depone
heard a noiſe, which he imagined to be a ſh
but was not ſure. Depones, That, ſome ti
thereafter, he went along with Ballacheliſh to t
wood of Lettermore, where he found Glenu
dead, and was one of the people that aſſiſted
carry the corpſe to Kintalline. *Cauſa ſcientiæ*
ſwered,

ſet. And this is the truth, as he ſhall anſwer to God. And depones he cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Alexander Campbell ſurgeon in Lorn, aged fifty years, unmarried, ſworn, purged, and examined *ut ſupra*, depones, That he was called to the houſe of Glenure, upon the 15th day of May laſt, to inſpect the body of the then deceas'd Colin Campbell of Glenure, who, the deponent was informed, had been ſhot the day before; and, having accordingly inſpected the body, he found, that he had been ſhot by two bullets entering at his back, one on each ſide of the back-bone; one of which had come out about half an inch below the navel, and the other about two inches from it towards the right ſide. And depones, That they were mortal wounds, of which the deponent believes Glenure died. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) ALEX. CAMPBELL. JA. FERGUSON.

Angus Macdonald walk-miller in Auchoſragan, married, aged ſixty three, witneſs cited, ſworn, purged, and examined *ut ſupra*, depones, That, April laſt, Allan Breck Stewart, and John Stewart in Auchnacoan, came in to the deponent's houſe, and ſat down; and, at the ſame time, Duncan Campbell the ſucceeding witneſs came in, and ſat down alſo; and which Allan aſked John Stewart who that was? and John anſwered, that he was an honeſt man in the neighbourhood, Duncan Campbell naming him; to which Allan anſwered, that he did not like any of the ſort or name:

name: for that Glenure had wrote to colone
Crawfurd, that he had come from France, and t
take him up as a deſerter; but that he was not i
his reverence; for he had general Churchill's paſs
that John Stewart ſaid, that he did not ſo muc
blame Glenure for turning out the poſſeſſors o
Ardſhiel; for that he was but doing the King
ſervice; and that, if he had not the factory, anc
ther would, who would do the ſame thing; t
which Allan anſwered, that he rather the meik
devil had it than Glenure; and, being interro
gate for the pannel, depones, That Allan was the
dreſſed in a blue ſide coat, a red veſt, and feathe
ed hat. Depones, that the deponent ſaw him a
gain about the 8th of May in the ſame dreſs
that, at that time, the deponent and the foreſai
Duncan Campbell and Malcolm Maccoll we
travelling together, and met Allan on the roac
that Allan gave Duncan the common ſalutation
and ſaid, that the laſt time he had been in Du
can's houſe, he was bad company, tho' it was n
he that was ſo much the bad company, as th
drink. *Cauſa ſcientiæ patet.* And this is t
truth, as he ſhall anſwer to God.

(Signed) ANGUS MACDONALD. P. GRANT.

Duncan Campbell change-keeper at Annat, ag
thirty five years, married, witneſs cited, ſwor
purged and examined *ut ſupra*, depones, Tha
in the month of April laſt, the deponent m
with Allan Breck Stewart, with whom he w
not before acquainted, and John Stewart
Auchnacoan, at the houſe of the walk-miller
Auchoſragan, and went on with them to th
houſe

houſe: that Allan Breck Stewart ſaid, that he ha-
ed all the name of Campbell; and the deponent
aid, he had no reaſon for doing ſo: but Allan
aid, he had very good reaſon for it: that there-
fter they left that houſe; and, after drinking a
ram at another houſe, came to the deponent's
ouſe, where they went in, and drunk ſome
rams, and Allan Breck renewed the former con-
erſation; and the deponent, making the ſame an-
wer, Allan ſaid, that, if the deponent had any
eſpect for his friends, he would tell them, that
they offered to turn out the poſſeſſors of Ard-
iel's eſtate, he would make black cocks of them,
efore they entered into poſſeſſion by which the de-
onent underſtood ſhooting them, it being a com-
on phraſe in the country: that John Stewart ſaid
e did not blame Glenure ſo much as Ballieveolan
r taking theſe poſſeſſions, whereas Glenure was
oing the King's ſervice; and Allan Breck replied,
at beſides that, he had another ground of quarrel
gainſt Glenure for his writing to colonel Craw-
rd, that he, Allan, was come home from France;
t that he was too cunning for him; for that,
hen at Edinburgh, he had made up his peace
ith general Churchill, and had got his paſs, which
had in his pocket-book: that the deponent
ked a ſight of it: that he ſearched his pocket-
ook, but could not find it; upon which he tore
leaf out of the book, and ſaid, there it was.
nd depones, That he ſaid twenty times over he
ould be fit-ſides with Glenure, where-ever he
et him; and wanted nothing more than to meet
m at a convenient place. Depones, That, at
is time, Allan Breck was not drunk, for he
uld walk and talk as well as any man. But it

could

could eaſily be obſerved, he had been drinking
Cauſa ſcientiæ patet. And this is the truth, as h
ſhall anſwer to God.

(Signed) DUNCAN CAMPBELL. P. GRANT.

Anne Maclaren, ſervitrix to Duncan Campbe
change-keeper at Annat, unmarried, aged twen
ty one, witneſs cited, ſworn, purged and ex
mined by the ſworn interpreter above named, d
pones, That, ſome time after the 17th day
March laſt, before the firſt of May, ſhe ſaw A
lan Breck Stewart in company with John Bre
Stewart in Auchnacoan, and Robert Stewart,
the mill of Duror, in her maſter's houſe; a
that ſhe heard Allan Breck then ſay, that
would not ſhun Glenure where-ever he met hi
by which ſhe underſtood that he was to do h
or harm to Glenure where-ever he ſaw hi
Cauſa ſcientiæ patet. And this is the truth, as ſ
ſhall anſwer to God; and declares ſhe cann
write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Robert Stewart ſon to Robert Stewart miller
Cuil, aged about twenty, unmarried, witneſs
ted, ſworn, purged, and examined *ut ſupra*,
the ſworn interpreter, depones, That, ſome ti
in April laſt, the deponent was in compa
with Allan Breck Stewart, John Stewart
Auchnacoan, Duncan Campbell change-kee
in Annat, in the ſaid Duncan Campbell's hou
that Allan Breck complained of Colin R
meaning Glenure and Mr. Campbell of Bal
veolan; and ſaid particularly of Glenure, t
he had ſent notice to Fort-William, that he

the country, that he might be apprehend-
d: but ſaid, he was not in his reverence, as he
ad the King of France's commiſſion in his poc-
et; and ſaid, he would be evens with him; and
hat he would take his opportunity to diſpatch or
urder either Glenure or Ballieveolan, before he
ft the country. Depones, That Allan Breck
as much in drink at the time of uttering the a-
ove expreſſions; and was then dreſſed in his long
ue coat. *Cauſa ſcientiæ patet.* And this is the
uth, as he ſhall anſwer to God; and declares,
cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Malcolm Bane Maccol change-keeper at Portna-
ſh, aged fifty years, married, witneſs cited,
orn, purged and examined by the interpreter *ut*
ra, depones, That, ſome time in April laſt,
lan Breck Stewart and John Stewart in Auch-
coan came to the deponent's houſe, after night-
, and ſat up all night drinking: that, next
rning, John Maccol, then ſervant to the de-
nent, now in Shuna, came into the company,
a ſhabby condition: that Allan Breck aſked
o he was? that the ſaid John Stewart anſwer-
that he was an honeſt poor man, with a nu-
rous family of ſmall children; and that it would
great charity in any body to aſſiſt him: upon
ich Allan Breck deſired the ſaid John Stewart
give the ſaid John Maccoll a ſtone of meal, and
would pay for it; which the ſaid John Stewart
miſed to do: that the ſaid Allan then gave the
John Maccoll a dram, and told him, if he
ld fetch him the red fox's ſkin, he would give
what was much better; to which the ſaid
John

John Maccoll anſwered, that he was no ſporti
man; and that he was much better ſkilled i
ploughing or delving. Depones, That the depo
nent gave no great notice to theſe expreſſions, a
the time; but, after he heard of Glenure's murde
believed he meant Glenure, as he was common
called Colin Roy, which means Red Colin, in th
country. *Cauſa ſcientiæ patet.* And this is th
truth, as he ſhall anſwer to God; and declares h
cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Anne Maccoll, ſpouſe to Malcolm Bane Ma
coll, the preceeding witneſs, aged about fort
witneſs cited, ſworn, purged, and examined
ſupra, by the interpreter, depones, conform
the ſaid Malcolm Bane Maccoll, the preceedi
witneſs, *in omnibus*, except that the ſaid All
Breck and John Stewart in Auchnacoan went
bed for a ſhort time; but, whether they ſle
or not, the deponent knows not. *Cauſa ſcien
patet.* And this is the truth, as ſhe ſhall anſw
to God; and declares, ſhe cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

John Stewart elder of Faſnacloich, aged fi
five years, married, ſworn, purged and exami
ut ſupra, depones, That, upon the Monday
fore the murder of Glenure was committed, Al
Breck Stewart was then at the deponent's ho
having been three nights there, accompanied
Charles Stewart ſon to the pannel: that he
Allan Breck, that Glenure was come from Ed
burgh, with a warrant to remove the tenants;
wh

which Allan Breck ſaid, that, if there was a warrant, there was no more to be ſaid; but that, he had no warrant, he would not be allowed to remove them: that the deponent told Allan Breck, that a plea with Glenure, concerning the removing of theſe tenants would be coſtly for James Stewart in Aucharn to ſupport: that the reaſon he named James Stewart, was, that he was the perſon who acted in behalf of the tenants: that the diſtance, between the deponent's houſe and the late Glenure's, is about a mile: that he heard, on Sunday, the 10th of May, that Glenure was going to Fort-William; and Allan-Breck left his houſe, about nine o'clock Monday morning. *Cauſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) Jo. STEWART. ARGYLL.

James Stewart younger of Faſnacloich, aged years, unmarried, ſworn, purged and examined *ut ſupra*, depones, That Allan Breck Stewart came to Faſnacloich about the 8th of May, and ſtayed three days: that he went away on Monday the 11th about nine in the morning: that he was going to leave the country ſoon, but would ſee them again at Faſnacloich before he went away: that he was then dreſs'd in a long blue coat, waiſtcoat, black breeches, and a feather'd hat: that he ſaw Allan Breck the next day being Tueſday the twelfth at Ballacheliſh: that he was then dreſs'd in a black ſhort coat with round white buttons, and a dark great coat over it, with trowzers on, and a blue bonnet: that the deponent took notice to Allan Breck that he had changed his dreſs, who

 anſwered,

anſwered, that he did it becauſe the day was warm that the deponent was informed at Ballacheliſh company with Allan Breck, that Glenure w gone to Fort-William: that when he parted wi Allan Breck at Glenco's houſe, Allan Breck to the deponent that he was going to Callart, a would return the next day, and did not ſee him ſinc that on Sunday the 10th of May, he heard, bei in company with Allan Breck, that Glenure h got an order from Edinburgh to remove the te ants, and was gone to Fort-William, and th this was at Faſnacloich. *Cauſa ſcientiæ pa* And this is the truth, as he ſhall anſwer to G

(Signed) JAMES STEWART. ARGYLL.

John Stewart younger of Ballacheliſh, ag twenty ſix years, unmarried, ſworn, purged a examined *ut ſupra*, depones, That, upon Tu day the 12th of May laſt, he ſaw Allan Bre Stewart at his father's houſe of Ballacheliſh, a heard him aſk queſtions about Glenure's travell to Lochaber: that, on Thurſday the 14th, late night, Donald Macintyre, a ſervant of the panne told the deponent of the murder; and that he going with a meſſage to Appin from James Stew his maſter, to give him an account of the m der: that he arrived at Appin's houſe before ſaid ſervant came there: that he returned to pin's houſe, inſtead of going to the pannel's ho where he had intended to be: that he told Appi the murder, at which he expreſſed great ſurp and concern. Depones, That, in the time of Spring circuit in this place in May laſt, he ſummoned to be of the jury, but, at the ear

req

equeſt of the pannel, that he, the deponent, ould be preſent with a notary at the removing f the tenants from the eſtate of Ardſhiel, he as a-going on that errand to the pannel's houſe, t returned to Appin, upon hearing of the urder committed that day. *Cauſa ſcientiæ patet.* nd this is truth, as he ſhall anſwer to God.

(Signed) JOHN STEWART. ARGYLL.

Katharine Maccoll, ſervant to the pannel, aged teen years and upwards, who being ſolemnly orn, by the forenamed ſworn interpreter, pur- d of malice and partial council, and examined d interrogate, depones, That ſhe ſaw Allan eck Stewart at the pannel's houſe, upon Mon- the 11th day of May laſt, in the after- on, dreſſed in a blue ſide coat, red waiſtcoat d black breeches; and does not remember to e ſeen him in any other dreſs that day. De- nes, That the pannel went, in the afternoon that day, to Keels, to meet Mr. Campbell of rds, and that it was late at night before he came me; but that the family had not ſupped when pannel came home; and that the pannel ſup- d in company with Allan Breck Stewart, Faſna- ich's daughter, and Archibald Cameron, nephew Faſnacloich, and the pannel's family. De- nes, That ſhe ſaw the ſaid Allan Breck Stewart, the morning of Tueſday the 12th of May laſt, ſſed in a dunniſh-coloured great coat in the pan- 's houſe; and that ſhe ſaw him go out at the r dreſſed in the ſaid dunniſh-coloured great coat. pones, That, upon the evening of Friday the h of May laſt, as the deponent came in at door, Margaret Stewart, ſpouſe to the pannel,

being

being then in the cellar, called upon the deponent who then ſaw the ſaid Margaret Stewart put a ſid blue coat, a red waiſt-coat, with ſomething el that the deponent did not obſerve, into a ſac and delivered them to the deponent, deſiring h to hide them ſome way without. Depones, Th the ſaid Margaret Stewart did not tell the dep nent to whom the cloaths belonged; but that t deponent thought the ſaid coat and waiſt-co were Allan Breck's. Depones, That ſhe went way with the ſaid ſack, containing the ſaid cloath and, as ſhe was going up the brae, in order to hi them, was overtaken by Dugald and John Beg Ma colls, ſervants to the pannel, who had ſome gu and ſwords; and the ſaid Dugald Maccoll aſked t deponent, what ſhe had got in the ſack? the dep nent anſwered, it was Allan Breck's cloaths; a that ſhe was going to hide them; and that a cordingly the ſaid ſack, containing the abo cloaths, was hid, in the moor, above the panne houſe, by the ſaid Dugald Maccoll, in preſen of the deponent. Depones, That, upon Satu day, the 16th of May laſt, in the evenin the ſaid Mrs. Stewart, ſpouſe to the pannel, de red the deponent to carry back what ſhe had h and leave it at the back of the brew-houſe; whi the deponent accordingly did; and has not ſe them ſince. Depones, That Alexander Ba Stewart was ſeen by the deponent about the hou that evening. Depones, That, ſome time in Su mer laſt, after the above period, Solomon Ba Maccoll, ſervant to the pannel, told the dep nent, that the ſaid Mrs. Stewart, ſpouſe to t pannel, deſired her to conceal what ſhe knew bout the above cloaths, in caſe ſhe ſhould be a

ed or examined about them. And, being interro-
gate for the pannel, depones, That Allan Breck
Stewart did not lie in the pannel's houſe upon
Monday's night, the 11th day of May laſt,
but lay in the barn, as the deponent thinks. *Cau-
ſa ſcientiæ patet.* And this is the truth, as ſhe
ſhall anſwer to God; and depones ſhe cannot
write.

(Signed) ARCH. CAMPBELL. JA. FERGUSON.

Archibald Cameron, ſon to Allan Dow Came-
on, ſome time change-keeper in Maryburgh, a-
ed twenty two years, unmarried, ſworn, purged
nd examined *ut ſupra*, by Mr. Archibald Camp-
ell ſheriff-ſubſtitute of Argyllſhire, depones, be-
ng interrogate for the pannel, That, upon Monday
he 11th day of May laſt, the deponent came
rom Faſnacloich's houſe to the pannel's houſe
fter mid-day: that, ſome little time after he
ame there, he ſaw Allan Breck Stewart there:
hat the pannel was not at home when the
eponent came firſt there, but came home be-
re night-fall: that the deponent, pannel, Al-
n Breck, and the family, ſat in one room, and
upped together: that he did not obſerve Allan
reck and the pannel ſpeak in private that night:
hat the deponent, and Allan Stewart the pannel's
n, lay in one bed, Allan Breck and Charles
tewart, ſon to the pannel, in another bed, in the
me barn: that, to the beſt of his remembrance,
ey all went to bed much about one time, and
t up together next morning: that the depo-
nt did not obſerve the pannel about the houſe
xt morning when he got up. *Cauſa ſcientiæ
patet.*

patet. And this is truth, as he ſhall anſwer to God.

(Signed) ARCHIBALD CAMERON.
ARCH. CAMPBELL.
ARGYLL.

John Breck Maccombich, change-keeper at Kintalline, aged about forty, married, witneſs cited, ſworn and purged by the forenamed ſworn interpreter, *ut ſupra*, depones, That, in the beginning of Summer laſt, before Whitſunday, Duncan Campbell ſheriff-ſubſtitute of Killin, told the deponent, that if he could, with truth and honeſty, make any diſcovery, tending to diſcover the murderers of Glenure, it was probable he would not be turned out of his poſſeſſion. Depones, That, upon the 14th day of May laſt, John Beg Maccoll, ſervant to the pannel, came to the deponent's houſe about ſeven o'clock in the morning, and told, that the pannel had deſired the deponent and John More Maccoll, another ſervant of the pannel's, to ferry the ſaid John Beg Maccoll from his houſe to Lochaber, that being the ſhorteſt road from Aucharn to Fort-William: that the deponent at the firſt declined it; but upon John Beg's telling, that it was the pannel's deſire that he ſhould be ferryed there, they carried him over accordingly. Depones, That, in the afternoon of the ſame day, before ſun-ſet, the ſaid John Beg Maccoll came back to the deponent's houſe and called for a half a mutchkin of aquavitæ, but did not ſit down: that, during the drinking of the dram, the deponent aſked the ſaid John Beg Maccoll, if he had been at Fort-William? and if

if he had got Charles Stewart notary? (which he told in the morning was his errand to Fort-William), John Beg Maccoll anſwered, that he had been at Maryburgh, but Charles Stewart was not at home. Depones, That, upon Tueſday the 12th of May laſt, Glenure ſent notice to the deponent, that he and ſome other company was to be at his houſe upon Thurſday then next, and deſired that he might be prepared for entertaining them; and that he accordingly made proviſion for them. Depones, That he told that Glenure was to be at his houſe that night; and that the whole neighbourhood knew of it; and, upon the pannel's interrogatory, depones, That Glenure frequently went to Lochaber by Mamuckie, being a ſhorter road to the ferry of Ballacheliſh than the ſtrath of Appin; and he once coming from Lochaber, landed at Kintalline; and that a perſon paſſing from Glenerearan to the ferry of Ballacheliſh by Mamuckie, does not go through the wood of Lettermore, nor by Kintalline. Depones, That he was warned to remove from his poſſeſſion, being a part of Ardſhiel eſtate, at Whitſunday laſt, and employed no perſon to keep him in poſſeſſion. Depones, That, ſome time after he had got his citation of warning, the pannel paſs'd by his houſe on horſe-back, and aſked if he had his copy of citation in the removing? the deponent anſwered he had; the pannel called for a ſight of it; and, upon the deponent's producing it, the pannel ſaid he would keep it. And being interrogate if the pannel informed him that he was going to Edinburgh, and was to produce his copy of citation there? depones, not; but only that he was going

ing ſouthward. *Cauſa ſcientiæ patet.* And this i
the truth, as he ſhall anſwer to God; and declare
he cannot write.

(Signed) ARCHIBALD CAMPBELL. P. GRANT

Alexander Stewart of Ballacheliſh elder, age
ſixty eight years, widower, ſworn, purged an
examined *ut ſupra*, depones, That Allan Brec
Stewart called at the deponent's houſe upon th
12th of May laſt, and that James Stewa
younger of Faſnacloich was then at the deponent
houſe: that, upon the 13th, about ſeven or eigh
afternoon, he came again to the deponent's houſe
and lodged with him all night, ſtayed the ne
day, being Thurſday the 14th, till eleven
twelve, when he went out with a fiſhing-road i
his hand, and was fiſhing in the burn near the de
ponent's houſe, but he did not ſee him take an
that he did not take leave of the deponent; a
did not return; and he knows nothing of hi
ſince: that the ſaid Allan Breck Stewart w
dreſs'd in a great coat, and under it a ſhort blac
coat with white buttons: that, when the ſaid A
lan Breck Stewart was fiſhing, he ſaw a great co
lying upon the bank which he took to be Alla
Breck Stewart's: that, that evening on the 14t
he was in company with Glenure, and left him
ry near the wood of Lettermore: that, the mor
ing after the murder was committed, the d
ponent really thought, that Allan Breck Stewa
might be the actor in this murder, becauſe he d
not return to this deponent again. *Cauſa ſcient*
pat

patet. And this is truth, as he ſhall anſwer to God.

(Signed) ALEX. STEWART. ARGYLL

Donald Rankine herd to Ballacheliſh, unmarried, aged about eighteen, witneſs cited, ſworn, purged and examined *ut ſupra*, by the ſaid Archibald Campbell ſworn interpreter, depones, That, on the 14th day of May laſt, he ſaw Allan Breck Stewart at the houſe of Ballacheliſh his maſter: and that the ſaid Allan Breck was dreſs'd in a great dun coat, under which he had on a black ſhort coat with ſilver or white buttons on it: that before mid-day he went up with a fiſhing-rod to the water ſide, where he ſaw him fiſhing in the water: that he has not ſeen him ſince. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God; and declares he cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Archibald Macinnes ferryman at Ballacheliſh, witneſs cited, aged ſixty five years, married, ſworn, purged and examined *ut ſupra*, depones, That he met Allan Breck Stewart, near the ferry of Ballacheliſh, upon the evening of Wedneſday the 13th of May laſt, as the ſaid Allan returned from Glenco. Depones, That, after mid-day, upon Thurſday the 14th day of May laſt, as the deponent was ſitting near the ferry of Ballacheliſh with the ſon of John Campbell in Stronmellachan Glenorchie, Allan Breck came behind them and hoaſted, and, upon the deponent's looking about, deſired him to come to him; which the deponent did; and the ſaid Allan inquired of him, if

Glenure had croſs'd the ferry from Lochaber t
Appin? the deponent told him, he was ſure h
did not: that, upon this, Allan Breck went a
way towards the high-road; had on a dun-colour
ed big coat, and had no fiſhing rod; and the de
ponent has not ſeen him ſince. Depones, Tha
he is ferryer upon the Appin ſide where this con
verſation happened. *Cauſa ſcientiæ patet.* An
this is the truth, as he ſhall anſwer to God; an
declares he cannot write. And further depone
That he heard no body ſuſpected for the murd
of Glenure, but the ſaid Allan Breck. Depone
That Glenure was expected back upon the We
neſday; and the deponent was ſure he muſt
back the Thurſday, as it was currently reporte
in the country, he was to have a meeting wi
ſome gentlemen at Kintalline, Thurſday nigh
And this is alſo truth, as he ſhall anſwer to Go

(Signed) ARCH. CAMPBELL. P. GRAN

Donald Stewart in Ballacheliſh, aged about thi
ty, married, ſolemnly ſworn by Archibald Cam
bell writer in Inverary, ſworn interpreter, wh
being purged of malice and partial council, ex
mined and interrogate, depones, That, upon t
15th day of May laſt, he met the pannel
Duror, upon the marches of Auchindarro
oppoſite to the pannel's houſe. Upon the dep
nent's regreting that ſuch an accident as Glenur
murder ſhould happen in the country, the pan
joined with him, and ſaid that he was inform
that one ſerjeant More, alias John Camer
had been threatning harm to Glenure in Fran
but did not inform the deponent who told him

Depon

Depones, That, to his knowledge, ſerjeant More has not been in Appin theſe ten years paſt. Depones, That, upon the evening of Thurſday the 14th of May laſt, about night-fall, Katharine Maciniſh, then in Ballacheliſh, now in Larich, came to the deponent, and told him that one without wanted to ſpeak with him: that this meſſage came to him in Ballacheliſh's own houſe: that, when he went out, the ſaid Katharine Maciniſh informed him, that it was Allan Breck that wanted him; and that he was a little above the houſe in the brae: that the deponent went up the brae, and met Allan Breck, who was then dreſſed in a great coat, and a dark ſhort coat under it with white metal buttons; the deponent told him of the murder, and ſaid it could not be but that he, Allan Breck, was about it; to which Allan Breck anſwered, that he heard of the murder, but had no hand in it; to which the deponent replied, he did not believe him. Depones, That the ſaid Allan Breck Stewart told the deponent, he was going immediately to leave the kingdom, was very ſcarce of money, and was going then for Koaliſnacoan; and deſired the deponent to acquaint the pannel, that he was gone to Koaliſnacoan; and deſired him, if poſſible, to ſend him money there; and the deponent then promiſed to acquaint James Stewart of the above meſſage. Depones, That the ſaid Allan Breck ſaid, he believed he would be ſuſpected of the murder, and, upon that account, and as he was a deſerter formerly from the army, it was neceſſary for him to leave the kingdom. Depones, That, before he had the above converſation with Allan Breck, he aſſiſted in carrying

rying the corpſe of Glenure to the boat. De-
pones, That, after the converſation with the pan-
nel about ſerjeant More, he delivered the above
meſſage from Allan Breck to the pannel; and
that the pannel did not ſay whether he was to
ſend the money or not: that this converſation
happened about 10 o'clock in the forenoon of
Friday the 15th of May laſt; and that there was
no body preſent. Depones, That, upon Sunday
the 17th of May laſt, he met Alexander Ban
Stewart packman in Appin, near the houſes of
Larich in Glenco, who told the deponent, that
he had been at John Breck Maccoll bouman to
Appin in Koaliſnacoan, with either three or five
guineas, the deponent is not poſitive which, that
he had got at Aucharn, to be left with the ſaid
John Breck for the ſaid Allan Breck's uſe, if he
called there; and told the deponent, that he left
the money with the ſaid John Breck Maccoll,
but did not ſee the ſaid Allan Breck. And, upon
an interrogatory put for the pannel, depones, That
upon the deponent's delivering the above meſſage
from Allan Breck to the pannel, the pannel aſked
why Allan Breck himſelf did not come for mo-
ney if he wanted it? to which the deponent, to
the beſt of his remembrance, replied, that Allan
told him he would be ſuſpected for the murder,
and was a deſerter: to which the pannel anſwer-
ed, that he hoped in God Allan Breck was not
guilty of the murder. Depones, That, during
the above converſation with the pannel, Alexan-
der Stewart, Duncan Maccombich and ſeveral
other poſſeſſors of Auchindarroch, were in the
adjoining field delving, but at ſuch a diſtance that

he deponent cannot think they could hear the a-ove converſation. And, being ſhown the ſhort lack coat, with clear white buttons on the breaſt nd pockets, and the blue ſtripped trowzers, now ing in the clerk's hands, depones, That the id Allan Breck wore ſuch a coat and trowzers, pon Thurſday the 14th of May laſt; and ſaw im in it the forenoon of that day at Ballacheliſh. nd further depones, That he, the deponent, is arried to a daughter of Stewart of Ballacheliſh, nd ſtays in the houſe with him: that her other was daughter to Stewart of Annat in Perth-ire. *Cauſa ſcientiæ patet.* And this the truth, he ſhall anſwer to God; and depones he can-ot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

John Macdonald of Glenco, aged twenty ſix ars, unmarried, ſworn, purged and examined *ſupra*, depones, That, on the 12th of May laſt, llan Breck Stewart came to Carnock, the houſe the deponent: that he ſtaid there but a very tle time, *viz.* not above a quarter of an hour: at the deponent had no converſation with him; d the ſaid Allan Breck Stewart went away: that Friday, the 15th of May laſt, the ſaid Allan eck Stewart came again to the ſaid houſe at three four o'clock in the morning, and knocked at e window of the ſaid houſe, when the family ere all in bed: that the deponent went to the or of his houſe, and there ſaw Allan Breck ewart, who gave him the firſt notice he had of enure's being murdered the evening before, in e wood of Lettermore; and told him, that he

was

was to leave the country; and came to take leav
of the deponent and his ſtepmother, who is a ſiſte
of Ardſhiel's: that his cloaths were then a dun c
brown great jocky coat: that the deponent did no
aſk Allan Breck Stewart any queſtions about th
ſaid murder; nor did he ſay any thing upon th
ſubject to Allan Breck Stewart, as far as the de
ponent can remember: Allan Breck Stewart to
him he was to go the moor-road leading to Ra
noch: that, upon the Tueſday above mentione
James Stewart of Faſnacloich was along with th
ſaid Allan Breck Stewart; and that he was dre
ed in a black ſhort coat with white buttons. *Ca*
ſa ſcientiæ patet. And this is truth, as he ſha
anſwer to God.

(Signed) JOHN MACDONALD. ARGYLL.

Iſobel Stewart, relict of Alexander Macdona
of Glenco, aged forty two years, ſworn, purge
and examined *ut ſupra*, depones, That, up
Tueſday, the 12th day of May laſt, Allan Bre
Stewart, deſcribed in the libel, came to her hou
at Carnock, in the afternoon, accompanied
young Faſnacloich, dreſſed in a black ſhort c
with white clear buttons: that he ſtaid about
hour; and then went away to the deponent's
ſters houſe at Callart: that Allan Breck Stew
came again to the deponent's houſe on the We
neſday the 13th of May laſt, in the afterno
and ſtaid about a quarter of an hour; and th
went to Ballacheliſh: that, on Friday, the 1
of May, the ſaid Allan Breck Stewart came ag
to the ſaid houſe, at four o'clock in the morni
and knocked at the window of the houſe, and

he family was in bed; upon which the deponent ent out with her ſtep-ſon; and ſhe aſked him, hat news up the country? to which he anſwer-d, a good deal of news, that Glenure was killed he evening before in the wood of Lettermore; hat he was come to take farewell of the depo-ent; for he was to leave the country: that ſhe ked him no more queſtions about the murder: hat ſhe aſked him to come into the houſe; but e anſwered he would not ſtay: that, to the beſt her remembrance, Allan Breck Stewart told er, that Glenure was killed or ſhot: that, when e knocked at the window, one of the deponent's ildren told her, that he heard Allan Breck ewart's voice. *Cauſa ſcientiæ patet.* And this truth, as ſhe ſhall anſwer to God.

(Signed) ISOBEL STEWART. ARGYLL.

Mary Macdonald, ſpouſe to Donald Macinnes Leckintium, aged about forty, witneſs cited, lemnly ſworn by Archibald Campbell of Knock-y, ſworn interpreter, purged of malice and par-l council, examined and interrogate, depones, hat, a little before ſun-ſetting, on Sunday the th of May laſt, ſhe ſaw Allan Breck Stewart ting in the wood of Koaliſnacoan, leſs than a ile's diſtance from the houſes: that, upon her proach, he ſtarted to his feet: that ſhe gave d received the common ſalutation from him; d then ſhe paſſed away on her own bu-neſs: that he was dreſſed in a long dun jocky at and bonnet. And depones, ſhe was alarmed meeting a man in a place ſo remote. *Cauſa ſci-entiæ*

entiæ patet. And this the truth, as ſhe ſhall an
ſwer to God; and declares ſhe cannot write.
(Signed) ARCH. CAMPBELL. P. GRANT.

Duncan Stewart travelling packman in Arl
rich in Rannoch, aged thirty two years, marrie
ſworn, purged, and examined *ut ſupra*, depone
That he met with Allan Breck Stewart upon
Monday or Tueſday about the 18th or 20th
May laſt, at a place in Rannoch called Leckinſtren
meir; and, having aſked Allan whence he ha
come, and whether he was going? he anſwere
he had come from Ballacheliſh or Callart, he do
not remember which; and that he was going to
ſhealing, where his uncle Allan Cameron live
and, as the deponent had, at that time, heard n
thing of the murder of Glenure; he ſaid nothi
to him about it: that, two or three days there
ter, the deponent's ſiſter told him, there we
two gentlemen wanting him out-by: and, aft
he had got his breakfaſt, he went out, and fo
ſaw Allan Breck, and afterwards Allan Bre
and Allan Cameron together at a know; and th
how ſoon the deponent went up to the two, A
lan Cameron went back, and the deponent pr
ceeded with Allan Breck down the country, abo
ſix miles, where he had occaſion to be going
bout his own buſineſs; and parted with him at
place called Inching; and, after he parted with t
ſaid Allan Breck, he was apprehended by a ge
tleman called Alexander Campbell, who ſuppoſ
the deponent to be Allan Breck Stewart; an
having aſked the deponent, if he had ſeen All
Breck? he then denied his having ſeen him. D
pon

pones, That Allan Breck was, at this time, dreſſed in a long blue coat and blue bonnet. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God; and depones he cannot write.

(Signed) JA. FERGUSON.

Allan Oig Cameron in Arlarich in Rannoch, aged hirty eight, widower, ſworn, purged, and examined *ut ſupra*, depones, That, on a Monday, e thinks the 18th of May laſt, Allan Breck tewart, the deponent's nephew, came to the deponent's houſe in Rannoch, who, having told the eponent, he had come from Appin or Glenco, he deponent, who, by that time, had heard a umour of Glenure's murder, ſaid to the ſaid Allan that he doubted not, he might be ſuſpected f it, as he was a looſe idle man in the country; o which the ſaid Allan anſwered, that he made o doubt himſelf that he would be ſuſpected of it: nd the deponent, having preſſed him earneſtly to ake a clean breaſt, and tell him all he knew of he matter, declared with an oath, he had never en Glenure, dead or alive; and the ſaid Allan aving ſtaid with the deponent till the Wedneſday ereafter, the deponent frequently repeated his ſtances, to tell him what he knew of the murer; at which Allan Breck became angry; and e deponent deſiſted further inquiry: that the id Allan Breck left the deponent's houſe upon e Wedneſday, whom the deponent conveyed ttle more than two gun-ſhots from his own houſe; t Duncan Stewart chapman, the preceeding itneſs, who had come to the deponent's houſe at morning, went along with them; and he ſaw

them take a little bye-road through corn, which might have led them to the high road; but what road they afterwards took, he does not know and depones, That, at this time, Allan Breck Stewart was dreſſed in a big coat of a browniſh colour, and had under it a long blue coat lined with red, red waiſt-coat and a bonnet: that, upon the 24th of May, as the deponent thinks, having occaſion to go to his maſter Sir Robert Menzies when about fourteen miles from his own houſe and, at the ſide of a wood, he heard a whiſtle from the wood, and, looking about, ſaw it to be the ſaid Allan Breck; and the converſation he then had with him, was to the following purpoſe that Allan Breck, having told him, his only fear was to be apprehended by the military, which might prove very fatal to him, as he had been a deſerter; which led the deponent to ſay, that he was very ſure, the friends of the deceas'd would procure him his diſcharge, if he could diſcover the murderer; to which Breck anſwered, that they were, at this time, in ſuch fury and rage, he was very ſure, were he apprehended, he would be hanged. *Cauſa ſcientiæ patet.* And this is truth as he ſhall anſwer to God.

(Signed) ALLAN CAMERON.
JA. FERGUSON.

James Man change-keeper at Innerhadden, aged thirty two, married, ſworn, purged, and examined *ut ſupra*, by the above Mr. Archibald Campbell

Campbell of Stonefield, ſworn interpreter, depones, That Allan Breck Stewart came to the door of the deponent's houſe at Innerhadden, the lower part of Rannoch, about twilight, towards the end of May laſt, and aſked the deponent, who was then ſtanding at his own door, if that was his houſe? which the deponent anſwered it was; and then Allan Breck told him, that he was directed by John Stewart in Bohallie to come there for ſome ſupply of proviſions: that the deponent deſired him to come into his houſe, and that he would give him part of ſuch fare as he had; but that Allan Breck declined to come in, being in a hurry, and ſtood in need of ſome proviſion; whereupon the deponent brought him ſome bread and cheeſe, and after he gave him the ſame, conveyed him as far as his barn, where the ſaid Allan Breck deſired the deponent to return; and that he, the ſaid Allan Breck, intended to go farther down the country that night: that the ſaid Allan Breck was dreſſed in a great dun coat and bonnet, and ſhort hoſe; what cloaths he had under the great coat he did not ſee; that he ſaw a piſtol under his left arm: that he aſked him whence he had come, but he did not tell him. Depones, That before Allan Breck came, as aforeſaid, it was reported in that country, that he was concerned in Glenure's murder; and that he himſelf ſuſpected him at the time, as he came unſeaſonably, and was wanting proviſions. *Cautum ſcientiæ patet.* And this is truth, as he ſhall anſwer to God. And further depones, That he has been acquainted with Allan Breck theſe twelve

twelve years. And this is alſo truth, as he ſhall anſwer to God.

(Signed) JAMES MAN.
ARCH. CAMPBELL.
JA. FERGUSON.

John Crawfurd Eſq; lieutenant-colonel of general Pultney's regiment of foot, aged thirty years unmarried, ſworn, purged, and examined *ut ſupra*, depones, That he knows the paper now produced in his hands, being number 11. of the inventar of writings in the clerk's hands: that it was ſent open to him before it was ſent away. Being aſked, whether the deponent had any preceeding converſation with the pannel on the ſubject of this letter? he anſwers, he does not remember he had any. Depones, and being aſked, whether the deceas'd Colin Campbell of Glenure ever told the deponent, that Allan Breck Stewart was a deſerter and in this country? the deponent anſwers *negativè. Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) JOHN CRAWFURD. ARGYL

Alexander Stewart of Innernahyle, aged forty four years, married, ſworn, purged, and examined *ut ſupra*, depones, That the pannel was a great many years ago tenant to his brother Archiſhiel, in the farm of Glenduror, and was removed alſo ſeveral years ago, the deponent does not remember how many, by his brother: that he again became tenant in the ſame lands in the 1749, or perhaps 1748, and was again removed by the deceas'd Glenure the factor, at Whitſun

ay 1751, and the lands ſet to Mr. Campbell of Ballieveolan. Depones, That, as the pannel is he deponent's near neighbour, the deponent had requent opportunities of converſing with him, ouching his ſaid removal: that the pannel did ot expect to have been removed, and ſeemed diſ-atisfied that he was; and ſaid, he believed Glen-re would not have removed him, if Ballieveo-n had not ſought theſe lands from him. De-ones, That the pannel further ſaid, that the te-ants generally allowed ſome gratuity to Ard-iel's children; and that theſe lands were the eſt farms on the eſtate, and moſt of the bene-ts accreſced from them; and tho' he himſelf ould be provided of a farm elſewhere, yet the hildren would be deprived of that benefit. De-ones, That, about the end of April, or begin-ng of May laſt, the deponent thinks about the eginning of May, he caſually met on the high-ay with Allan Breck Stewart, and quarrelled im for not making him, the deponent, a viſit, and llan Breck Stewart promiſed to ſee the depo-nt before he left the country; but the depo-nt has never ſeen him ſince that time. De-ones, That, upon the Saturday and Sunday after lenure's murder, it was the general opinion of e people in the country, that he had been mur-red by Allan Breck Stewart. Depones, That the ace where Glenure was ſaid to be murdered, and here the deponent obſerved marks and ſym-oms of the murder, is a very bad road thro' a ood, interſperſed with rocks and ſtones upon hanging brae, from which a perſon may deſcry e road on the North ſide of the ferry of Balla-

cheliſh,

chelish, and where a perſon may eaſily conce
himſelf ſo as not to be ſeen from the road. De
pones, That the deponent is acquainted with th
hand-writing of Allan Stewart, ſon to the pan
nel, and has frequently ſeen him write. An
being ſhown a letter ſigned Allan Stewart, an
addreſſed to Duncan Stewart of Glenbucki
dated at Aucharn the 1ſt of April 1751, bein
the writing number 7. in the inventary of wri
tings ſubjoined to the libel, depones, That it
like Allan Stewart's hand-writing, and the dep
nent would take it to be his, but cannot be po
tive that it is his. Depones, That, after the a
tainder of Stewart of Ardſhiel, the factor ga
the pannel the opportunity of having the greate
influence with the tenants of Ardſhiel more th
any other perſon, by allowing the pannel to ſett
lands, which he continued down to Whitſund
1751, if not at that term alſo; but depones, Th
the pannel's connexion with the family of Ar
ſhiel gave him alſo a natural influence over t
tenants, even before Glenure's factory. Depon
That, before that time, the tenants, the depon
believes, paid their rent to the lady of Ardſhiel, a
ſhe again employed the pannel to deal with the
And being interrogate for the pannel, wheth
he, the pannel, removed voluntarily from Gle
duror without any warning, depones, That
did not hear of any warning, but that he rem
ved voluntarily. Depones, That Allan Bre
Stewart, as the deponent has been informed, w
a ſoldier in the King's army, and was taken p
ſoner by the rebels at the battle of Preſton; a
that he was told ſo by a man who took him fr
amo

among the priſoners. And depones, That he afterwards joined with the rebels, where the deponent ſaw him. Depones, That, after the battle of Culloden, he left this country, and, as he told the deponent, went over to France, and entered into the French King's ſervice. Depones, That the deponent had no occaſion of ſeeing Allan Breck Stewart laſt time he was in the country, but at the time before deponed upon, and the time before that; and both theſe times he was dreſſed in a blue long coat, a red veſt, and a feathered hat, and black breeches. Depones, That he remembers that Allan Breck Stewart came over to this country a year or two ago, and ſtaid ſome weeks among his friends; but neither at that time, nor the laſt time, did he ſeem, ſo far as the deponent obſerved, to be in any apprehenſion of being taken; only, as he had been once in the army, he did not chuſe to meet with any of the King's troops. Depones, That, at the time the pannel removed from Glenduror, he told the deponent, that he had had a meeting with Ballieveolan; and that there was a compromiſe betwixt them, but does not remember the particulars. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) ALEX. STEWART. P. GRANT.

Donald Campbell of Airds, aged forty ſeven years, married, ſworn, purged and examined *ut ſupra*, depones, That the pannel was employed by the deceas'd Glenure for ſome time as his ſubtor in levying the rents of Ardſhiel, and ſetting the lands; and the pannel told the deponent, that

that whatever was made of theſe rents over wha
was paid in to the exchequer, was accounted for t
the children of Ardſhiel: and when he remove
from Glenduror, he told the deponent that h
had reaſon to believe, that the ſaid excreſcenc
of the rents of that farm would ſtill b
accounted for to them; and, in that caſe, h
would be eaſy as to his own removal. And de
pones, That Ardſhiel's children, at the time
the rebellion, were all young; his eldeſt ſo
being now, as the deponent believes, about eigh
teen. Depones, That, in Spring laſt, the depo
ent had a letter from colonel Crawfurd, tellin
him that he heard Allan Breck Stewart was com
to the country, and inliſting men for the Frenc
King's ſervice, and deſired the deponent to inquire
it was ſo: that the deponent did inquire, and wro
the colonel for anſwer, that he heard he had be
in the country, but that he was then gone away
that this was in the month of April, to the beſt
the deponent's remembrance; and it ſeems
bout that time Allan Breck Stewart had gone
Rannoch, which gave occaſion to the depo
ent's being informed that he was gone away
and did not hear of his having returned to t
country till after Glenure's murder; and thin
he wrote alſo to colonel Crawfurd, according
the information he had got, that Allan Bre
Stewart was in uſe of coming every year to t
country ſince Ardſhiel went to France. Depon
That, upon the afternoon of Monday the 11th
May laſt, the deponent ſent to the pannel, deſiri
him to come to him to Keills, a farm belonging to t
deponent, at about a mile's diſtance from the pa
ne

el's houſe: that the pannel accordingly came here to him that afternoon as ſoon as he expected him: that the deponent's buſineſs with him was or his aſſiſtance in ſetting that farm: that the arm was accordingly ſet; and the pannel himſelf ook part of it; and conveyed the deponent a part f his way home; and then they parted: that be-re parting he deſired the pannel to go next orning to Appin's houſe: that the pannel ccordingly did ſo; and the deponent had a letter om him, from that place. *Cauſa ſcientiæ patet.* nd this is truth, as he ſhall anſwer to God.

(Signed) DONALD CAMPBELL. P. GRANT.

Charles Stewart writer and notar at Bannavie, ed thirty eight years, married, ſworn, purged and amined *ut ſupra*, depones, That James Stewart e pannel wrote a letter to the deponent, deſi-g him to go with the tenants of the lands of rdſhiel to intimate to Glenure a ſiſt on a bill of ſpenſion: that accordingly the deponent went Aucharn that night: and the next morning the nants came there; and he then went along th the tenants to Glenure's houſe; and there imated the ſiſt; and a proteſt was alſo taken a-inſt the ſaid Glenure: that this was on the 1ſt May. Depones, That the pannel told the ants at the pannel's houſe, that there was a ſiſt me of the removing; that he did not deſire m to go with the ſiſt, unleſs they had a mind mſelves; and they choſe to go, but the pan-himſelf did not go along. Depones, That he eived a ſecond letter from the pannel of date 14th of May, deſiring him to attend next day

at the ejection; but that he declined the ſame, be
cauſe he did not care to diſoblige Glenure. Depones
That he ſaw Allan Breck Stewart at Aucharn th
1ſt of May; and when the deponent left Auchar
next day, he left him there: that he heard Alla
Breck ſay, that he thought it hard that Glenur
ſhould remove the tenants upon the eſtate of Ard
ſhiel when he did not remove thoſe of Mamore
Depones, That, in the beginning of April havin
met Allan Breck Stewart, he told the deponen
that he heard that colonel Crawfurd was ende
vouring to take him up as a deſerter; but that h
Allan Breck, had ſurrendered himſelf in the 174
to Sir Robert Menzies, as a juſtice of peace
Depones, That, in the beginning of April, the de
ponent ſaw Allan Breck Stewart at Callart: that h
did not appear to be ſculking: that when he ſa
him firſt, he was dreſſed in a French habit
that, on the 1ſt day of May when he ſaw him a
Aucharn, he was in a ſhort black highland co
with white buttons and trowzers, and ſaid he ha
come from Rannoch. *Cauſa ſcientiæ patet.* An
this is truth, as he ſhall anſwer to God.

(Signed) CHARLES STEWART. ARGYL

Duncan Maccoll in Ardſhiel, aged thirty yea
and upwards, married, being ſworn, purged an
examined *ut ſupra*, by Mr. Alexander Campbe
miniſter at Inverary, ſworn interpreter, depone
That, on his and others being warned to remo
from the lands of Ardſhiel, as at Whitſunday la
he, for his part, had no intention other than
ſubmit to the warning, till a paper was procure
from Edinburgh, which he heard read by Charl
Stewa

Stewart notar at Aucharn, as on a day he was there, being along with his neighbours advertiſed to meet there: that, when the notice was given for this meeting, he was not at his own houſe; but, on his return, his wife told him, ſuch a meſſage was ſent, and that advice was come from Edinburgh to direct thoſe who were warned to remove, to continue in their poſſeſſion: that, on his coming to Aucharn, he does not remember, whether the paper was read in his preſence, but is poſitive he and his neighbours were told by Charles Stewart notar and the pannel, that the paper contained advice, as above, on which they ſhould go to aſk the lands from Glenure; and to be cautious in their conduct, as they were to ſwear about their being faithful and peaceable tenants. Depones, That he gave no allowance or mandate to the pannel to make any application at Edinburgh againſt the removing: that, before he heard any thing of this paper from Edinburgh, he had engaged to ſerve as bouman to the tenants Glenure was to introduce; but that, on hearing of the paper from Edinburgh, he preferred keeping by his neighbours, as he conſidered the being continued in poſſeſſion, did the law ſupport him in it, more beneficial to him. Depones, That the procuring the paper at Edinburgh coſt him no money. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God. And, being interrogate for the pannel, depones, That it was in company with the reſt of his neighbours, he went to Aucharn, and went along with them likewiſe in company from Aucharn to Glenure, along with the notar; and that he remembers, before they left Aucharn,

the

the pannel, in general, told them, they migh
follow the advice given them, or not, as the
ſhould ſee cauſe; and that, upon their arrival a
Glenure, all that he remembers was, that the
took proteſts with money, in the notar's hand
againſt Glenure. And this is alſo truth, as h
ſhall anſwer to God.

(Signed) ALEX. CAMPBELL. JA. FERGUSON.

John Maccombich in Ardſhiel, aged forty thr
years, married, ſworn, purged and examined
ſupra, by the above Mr. Alexander Campbe
ſworn interpreter, depones, That he was warn
with the reſt of the tenants to remove, as at l
Whitſunday, and meant to ſubmit to it, a
therefore agreed with the tenants to be introd
ced to ſerve them as bouman; but on his bei
called to Aucharn, by a meſſage in Charles Ste
art the notary's name, and hearing the advi
from Edinburgh explained there, and that th
were ſome hopes the government would allo
them to ſit ſtill, if they continued peaceable,
chuſed to keep by this chance with his neig
bours; upon which he went along with them
Glenure, and aſked to be continued, and got
anſwer, that the application was too late, the lan
being ſet to others; upon which he joined wi
his neighbours in taking a proteſt in the hands
the notary. Depones, That, as to the agre
ment betwixt him and the incoming tenants, wh
he undertook to be their bouman, he heard bo
Glenure and theſe tenants ſay, that it was by Gle
ure's advice that this was done. Depones, Th
as Duncan Maccoll and he agreed at the ſa
ti

time to be bouman to the incoming tenants, ſo he heard Glenure ſay, that it was his advice to the perſon who was to employ Duncan Maccoll, to take him as his bouman. Depones, That, on his being warned, he adviſed with the pannel how to behave: that he did not pretend to direct: that an advice in law ſhould be aſked: that he hoped the King and thoſe employed by him, would continue the former poſſeſſors, they behaving dutifully; and that, on his being adviſed by the pannel to have patience, he reſolved to wait the iſſue: that likewiſe the pannel adviſed him, if better could not be made of it, to endeavour to get a ſubſet from the incoming tenant; and that the pannel adviſed him and others concerned, to qualify to the government. Depones, That he told the pannel, that if the law countenanced the continuing them in their poſſeſſion, he would rather chuſe it. Depones, That, on the day he and his neighbours went to Glenure, the pannel left them to the freedom of their own choice, whether to follow the purpoſe of the advice from Edinburgh, or not; only it was his opinion, that they had a chance of being continued in their poſſeſſions, they behaving themſelves in all reſpects dutifully, and go and aſk the hands of Glenure. Depones, That he does not remember that the advice from Edinburgh coſt him any money, or that any was aſked of him; but that ſome accompts were at that time betwixt him and the pannel. Depones, That he continued with the reſt of the tenants about the pannel till they were deſired by him to leave him, he could take care of himſelf, and was to go home;

home; and that he does not remember to have heard Glenure's name mentioned all the while; and that this happened on occaſion of Glenure and the pannel's meeting at Kintalline: that he is not poſitive as to the time, but thinks it was the laſt night of the old year. Depones, That he heard Glenure went next day to the pannel's houſe, and dined there. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) ALEX. CAMPBELL. P. GRANT.

John Maccorquodale, late in Lettermore, now in Ballacheliſh, aged twenty and upwards, married, ſworn, purged, and examined *ut ſupra*, by the ſaid Mr. Alexander Campbell ſworn interpreter, depones, That the laſt night of December laſt, he was preſent at Kintalline, as Glenure and the pannel, with ſome other company, met, when after drinking a while, from loud words it was apprehended a quarrel would enſue; to prevent which the deponent, with ſome others, carried out the pannel, who ſeemed unwilling to part with Glenure, as he expected Glenure would go that night to his houſe: that the deponent heard that Glenure, tho' he declined to go with the pannel that night, yet he propoſed to breakfaſt with him next morning: that the deponent was in company with the pannel, and followed him at ſome diſtance from the houſe of Kintalline, and that all the while he was in the pannel's company, he heard nothing of Glenure; only the pannel was diſobliged at being ſeparated from him, and ſaid, that if they about him had kept off, Glenure and he would be good friends before

the

they would part. Depones, That, when he was warned, and conſequently like to want lands, he was talking of his ſituation to the pannel, being poor, and, in his own apprehenſion, unable to bear the expence of a law-ſuit, did not propoſe to follow the matter in that way: that being aſked a ſight of the warning, he gave it to the pannel, but did not deſire any advice in law ſhould be aſked about it, having ſome dependence on his innocence, and not being concerned in any of the troubles in that country. And being interrogate for the pannel, whether the pannel had adviſed him, the deponent, to engage as bouman in Letermore, if better could not be provided for him, depones *negativè*. *Cauſa ſcientiæ patet*. And this is truth, as he ſhall anſwer to God.

(Signed) ALEX. CAMPBELL. P. GRANT.

Ewan Macintyre in Duchelly, late herd in Glenduror, aged twenty years and upwards, unmarried, ſworn, purged, and examined *ut ſupra*, by Mr. Archibald Campbell of Stonefield, ſworn interpreter, depones, That he engaged to be herd to Mr. Campbell of Ballieveolan, in the farm of Glenduror for the year 1751; and that the day after he entered into his ſervice there, the pannel challenged him for accepting thereof, and told him, that he would be fit-ſides with him, ſooner or later, for doing it; and that if he did not meet with reſentment himſelf in his lifetime, others, ſuch as his friends, might meet with it after his death. Depones, He never was in the pannel's ſervice. *Cauſa ſcientiæ patet*. And this is truth, as

as he ſhall anſwer to God. And depones he can not write.

(Signed) ARCH. CAMPBELL. ARGYLL

Alexander Campbell in Teynaluib, aged fifty years married, ſworn, purged, and examined *ut ſupra* depones, That, in the end of April laſt, the pannel called at the deponent's houſe in the morning, to have his horſe corn'd; and having called for, and got a dram, which was afterwards ſet down upon the table, one Macclaren a merchant in Stirling, who had lodged with the deponent the night before, being preſent, aſked the pannel if he would not help the deponent to a dram. And the pannel anſwered, he did not know any thing that he would help the deponent, or any one his name to, if it was not to the gibbet. The deponent anſwered, that that was not a comfortable expreſſion to him, that it ſeems if any of them were at the gibbet, the pannel would draw down their feet; and the pannel replied, that of ſome of them he would, and ſome of them he would not: that then the deponent ſaid, that Glenure as he ſuppoſed, was the man of the name with whom the pannel had the greateſt quarrel, and the deponent did not know any good cauſe the pannel had for it: upon which the pannel anſwered, that if Glenure had uſed the deponent as ill as he had uſed him, the pannel, by turning him out of his poſſeſſion, he would have leſs quarrel with him than he had. And the deponent replied, that that was no juſt cauſe of quarrel; for that if the pannel had a tack of his farm, Glenure could not turn him out; and the deponent

eponent's wife was alſo preſent at this conver-
ation. And being interrogate for the pannel,
whether the deponent then thought him ſerious,
nd in earneſt, or that it was only a joke? de-
ones, That, at that time, he thought it proceed-
d from malice. And being further interrogate
or the pannel, depones, he was at that time per-
ectly ſober. Depones, That all they drank was
gill of aquavitæ, of which the deponent got a
art. *Cauſa ſcientiæ patet.* And this is truth, as
e ſhall anſwer to God.

(Signed) ALEX. CAMPBELL. P. GRANT.

Ewan Murray vintner, at weſt end of Loch-
arn, aged thirty four years, married, ſworn,
urged, and examined *ut ſupra*, depones, That,
April laſt, the pannel and Colin Maclaren
erchant in Stirling, came to the deponent's
ouſe, and the pannel told the deponent, that
lenure had warned away ſeveral families in Ard-
iel's eſtate to remove; and that he was inform-
, that none of the factors on the forfeited e-
ates had power to remove the tenants; and that
was going to Edinburgh to take advice of law-
rs about it; and, if he had not that power, that
e pannel would apply for ſuſpenſion in his own
me, and in name of the reſt of the tenants;
d, the converſation turning upon an officer of the
my, that was branded with cowardice, and had
en broke on that account, the pannel ſaid, that
had reaſon to ſay that Glenure was as great a
ward as that officer; for that he, the pannel,
d challenged him to fight him, which Glenure
clined; and deſired the deponent to tell Glen-

ure, that he had told him ſo; but the deponent anſwered, that he would not carry any ſuch meſſage from one gentleman to another; and, from the converſation, the deponent underſtood, that the arms with which the pannel had challenged Glenure to fight, was with piſtols; and being interrogate for the pannel, depones, That he thought the pannel was a little concerned with drink. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) EWAN MURRAY. P. GRANT

Colin Maclaren merchant in Stirling, aged twenty two years, unmarried, ſworn, purged and examined *ut ſupra*, depones, That, in the month of April laſt, the deponent happened to lodge in the houſe of Alexander Campbell in Teynaluib one night, and in the morning about nine o'clock the pannel alighted there; and, having breakfaſted and got a dram, the deponent underſtanding that the pannel was going the ſame road with him towards Stirling, deſired the pannel to give the landlord a dram, that they might go on their journey; that the pannel anſwered, that he did not think he ſhould help the landlord or any of his name to a dram or any thing elſe, if it was not to the gibbet that he had mentioned to the landlord, that Glenure had warned him to remove from his poſſeſſion in Ardſhiel; therefore the landlord anſwered, that it ſeem'd if they were on the gibbet, the pannel would draw down their feet; and he ſuppoſed it was on Glenure's account; to which the pannel anſwered, he could not ſay but it was; upon which

the pannel and landlord entered into an altercation together touching the juſtice of that removing; and, as the deponent had no concern in the matter, he took little notice to what paſſed. Depones, That, upon the landlord's uſing the above expreſſion, that, if they were on the gibbet, the pannel would draw down their feet, the pannel's anſwer was in theſe words, that he did not chuſe to be an executioner, but he could draw down ſome of them. Depones, That from Teynaluib the pannel and deponent proceeded on their journey, and about eleven o'clock or mid-day came to the houſe of Ewan Murray the preceeding witneſs: that there the pannel again complained of Glenure's removing him; told him it was one Campbell that was to ſucceed in his room: that he did not know any reaſon for Glenure's uſing him ſo; for that they were couſins: and, upon the deponent's ſaying, that poſſibly it was none of Glenure's fault, and that he could not help it, the pannel ſaid, he did not know any buſineſs that either the exchequer or the factors had to turn out tenants, while they paid their rent; and ſaid, that he was going to Edinburgh to get a ſuſpenſion of the decreet of removing. Depones, That, having left Ewan Murray's houſe together, and the ſaid Ewan in company with them, the converſation turned upon an officer in the army, who had been broke for cowardice; and the deponent ſaid, he was ſurpriſed with it; for that that officer, as the deponent heard, had not declined to accept of a challenge to fight from Glenure; that thereupon the pannel ſaid, that he eſteemed that officer a better man than Glenure: and Ewan Murray having contradicted

dicted his being ſo good a man as Glenure, th
pannel ſaid, that he knew the contrary; for tha
he himſelf had given Glenure a challenge to figh
him, which Glenure declined; and deſired Ewa
Murray to tell Glenure, that he would fight hi
when he would; but Ewan Murray declined to carr
ſuch a meſſage. Depones, That, after parting wit
Ewan Murray, in the courſe of their journey th
deponent found, that the removing was much
the pannel's heart; and the deponent endeavou
ed all he could to divert the converſation to a
other ſubject: that the pannel told him, that,
he failed in his ſuſpenſion at Edinburgh, he wou
carry it to the Britiſh parliament; and, if he fa
ed there, told him, after a little pauſe, and wi
an emphaſis, that he behoved to take the only
ther remedy that remained: and, being interr
gate for the pannel, depones, That, during t
converſation in Campbell's houſe, above depon
upon, the deponent at firſt thought, that the pa
nel had been in joke; but afterwards it was li
to become very ſerious; for the landlord and
came to pretty high words together; and, bei
further interrogate for the pannel, depones, Th
he did not think the pannel drunk, either
Campbell's houſe or in Ewan Murray's houſe; b
after leaving Murray's houſe, they drank two
three drams at a dram-houſe; and, after th
the deponent thought him much concerned w
liquor; and it was after taking theſe drams t
the converſation between Murray and the pann
with reſpect to challenging Glenure, happen
And depones, That they had rode ſeveral mi
together, before the converſation about the Brit

parliame

parliament; and the deponent thought him even then ſtill concerned with drink. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) COLIN MACLERAN. P. GRANT.

John More Maccoll late ſervant to the pannel, aged thirty ſeven, married, witneſs cited, ſolemnly ſworn, purged and examined by the ſworn interpreter above named, depones, That he was preſent at a converſation that happened betwixt the pannel, John Beg and Dugald Maccolls, both ſervants to the pannel, in the pannel's brew-houſe at Aucharn, before day light upon a morning, about Yule laſt, as the deponent beſt remembers: that the deponent was then employed in diſtilling the ſecond draught of a brewing of aquavitæ; and the pannel ordered the deponent to give him and the people preſent a dram, which the deponent did: that the pannel ſaid, Glenure would not take the rent from the tenants of Aucharn, part of the Ardſhiel eſtate, becauſe they had given the pannel ſome bear, which Glenure alledged they ought to have paid him: that the pannel complained it was hard to refuſe the rent in money from the tenants in a ſcarce year; and obſerved, that it would be of no great conſequence to him, the pannel, tho' he ſhould pay back the bear, in compariſon to what it would be to the tenants for ſubſequent years, in caſe they were obliged to pay their farm bear and meal; and ſaid, the tenants or commoners were likely to be very ill off; for, if Glenure went on in the way he then did, it was likely he would be laird of Appin in a very ſhort time; and that he

he knew once a ſet of commoners in Appin who would not allow Glenure to go on at ſuch a rate to which the deponent and the reſt anſwered that they knew no commoners in the country that could ſtrive or contend with Glenure in that manner. Depones, That he had no converſation with the ſaid John or Dugald Maccolls that day nor any time thereafter, about the import of the above communing. Depones, That, in ſeed time laſt, when they were harrowing the tath field in Aucharn, being the very day that James Stewart went for Edinburgh, Allan Breck Stewart came to the deponent; and the ſaid Dugald Maccoll, as they were yoking the horſes; and the deponent, having aſked him ſome queſtions about France, ſaid, he did not ſee any of the people that went over there, come back in ſo good a way as they went over. To which Allan Breck replied, that they came back better than they went and that they, meaning the people of Appin might be much better, if they were worth themſelves; upon the deponent's anſwering, that he did not ſee how that could happen, Allan Breck anſwered, if they, the commoners, were worth themſelves, they could keep out Glenure, and hinder him from oppreſſing them; in which caſe they would not be baniſhed from their natural poſſeſſions; and, upon the deponent's anſwering he did not ſee how any body could pretend to ſtrive or ſtruggle with Glenure in that way, as he had the laws of the King and country for him and no body to ſupport or take them by the hand after their ſo doing, Allan ſaid, he had it in his power to ſave or protect any body that would put

Glenur

Glenure from trampling upon the country in the manner he then did: and, being interrogate for the pannel, what dreſs the ſaid Allan Breck uſed to wear, when he ſaw him at Aucharn? Depones, That he always ſaw him wear a blue ſide coat, red waiſt-coat, and black breeches, with a hat and feather, except twice that he ſaw him in a black ſhort coat, with white mettal buttons. The firſt time he ſaw him, with the ſaid ſhort coat, was, when the pannel was at Edinburgh: and the ſaid Allan Breck told, he was going to Lannoch, and actually went away, and ſtaid ſeveral days; and the other was upon Monday the 11th day of May laſt, when he ſaw the ſaid Allan Breck come to Aucharn dreſſed in his long cloaths, and came directly where the pannel, Allan his ſon, John Beg Maccoll, and the deponent were covering potatoes: that, when Allan came up, they were reſting themſelves, and ſitting by one another: that Allan Breck ſat with them; and all the converſation that the deponent noticed was, ſome queſtions about the welfare of the people of Lencrearan: and that he did not obſerve the pannel have any private converſation with the ſaid Allan Breck; for that, a very little time after Allan Breck's arrival, the pannel had a meſſage to meet Mr. Campbell of Airds at Keel; and that this happened after mid-day: that the pannel immediately, upon receiving the above meſſage, went away in order to meet Airds: and that no body went along with the pannel, Allan Breck having ſtaid with them: that a little thereafter, the deponent, Allan Stewart the pannel's ſon, and John Beg Maccoll, went to cover potatoes at

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a greater diſtance from the pannel's houſe that Allan Breck ſtaid behind; and, ſome time thereafter, Allan Breck came where they were working, dreſſed in a black ſhort coat with white mettal buttons and black breeches, and wrought with them in covering potatoes. Depones, That the deponent came very early upon Tueſday morning to the pannel's ſon, and found the ſervant getting up: that the deponent went to Aucharn at about a quarter of a mile's diſtance for a ſlaughter ſpade; and, as he was returning from thence, he met the pannel going for Appin's houſe and, when he came to the pannel's houſe, he ſaw Allan Breck ſitting in a room, dreſſed in the black ſhort coat, combing his hair. Depones he never ſaw the ſaid Allan Breck at work any of the time he ſaw him at Aucharn, except covering the potatoes upon the Monday evening as aforeſaid. *Causa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) ARCH. CAMPBELL. JA. FERGUSON.

Dugald Maccoll, ſervant to the pannel, unmarried, aged twenty four years, witneſs cited, ſworn purged and examined *ut ſupra*, by the forenamed ſworn interpreter depones, That, in the latter end of Winter laſt, about day-break, the deponent was alongſt with the pannel, in his brew-houſe at Aucharn, in company with John More Maccoll and John Beg Maccoll, both ſervants to the pannel: that, after taking a dram of whiſky, the converſation fell upon the tenants of Aucharn, part of the forfeited eſtate of Ardſhiel; and it was then mentioned, that they were in uſe

pay ſome bear and meal as part of their rent: that the tenants of the ſaid town of Aucharn had paid the bear to the pannel they were in uſe to pay, and made offer of money for that and the reſt of the rent to Glenure the factor; and that Glenure refuſed to take the money, inſiſting to have the victual paid in kind as formerly; upon which the pannel ſaid, that Glenure was like to hurt him, the ſaid James Stewart, as much as was in his power; for, as the tenants had paid him the bear in uſe to be paid out of that farm, and turned it to his own uſe, he would be obliged to answer to Glenure for that article of the rent; but added, that that was not the worſt of it, and that, if he, Glenure, went on in the ſame way, it was likely he would in five years be laird of Appin; and, upon the deponent and the ſaid John More and John Beg Maccoll's ſaying, that that was likely to happen, the ſaid James Stewart, the pannel, anſwered, that that was the fault of the commoners or followers; for however he, or people in circumſtances like him, would ſhift for themſelves, they, the commoners, would be very badoff: and added, that he knew commoners once in Appin who would not allow Glenure to go on ſuch a rate; to which the deponent and the others preſent anſwered, that they believed that there might be commoners once in Appin who would do

Depones, That he does not remember that he and John Beg Maccoll had, at any time that day or thereafter, any communing about the ſenſe or meaning of this converſation that happened in the brewhouſe. Depones, That, upon the laſt night of December laſt, Glenure and John Campbell of Balli-

veolan were in company with the pannel, John Stewart younger of Ballacheliſh, and James Stewart in Ardnamurchan uncle to the pannel, in the houſe of John Breck Maccombie change-keeper at Kintalline; and, after night-fall, by the deſire of his miſtreſs, the deponent went there to attend his maſter home; that, after he came there, Glenure, the pannel and his company drank till it was late at night, and the deponent heard them ſpeaking together, but, as it was in Engliſh, he did not underſtand what they ſaid; that, at laſt, they began to ſpeak very loud and got up upon their feet: that the deponent, and ſeveral other commoners, who happened to be at the houſe at the time, apprehending they were going to quarrel, went into the room in order to prevent it: that they ſtill ſpoke loud and in Engliſh, and the deponent, with the aſſiſtance of John Maccombie, *alias* John the ſon of Duncan and grandſon of Malcolm, and another John Maccombie, *alias* the ſon of Duncan and grandſon of Duncan, both then tenants in Ardſhiel, and John Roy Maccorquodale, then in Lettermore now in Ballacheliſh, carried the pannel, and the ſaid James Stewart his uncle, out of the room: that they inſiſted for being back to the company, but that young Ballacheliſh came to them and told them that they muſt not go back, and that they ought to be good friends: upon which the pannel ſaid he would not ſtir from the place, till he was told by Glenure if he would go to his houſe next day; that Ballacheliſh ſaid he would go and give notice, and accordingly went into the room, and returned back in a little time, and told the pannel

that Glenure promiſed to ſee him at his houſe next day: that the pannel aſked if Glenure had promiſed ſo upon his honour; and, upon Ballachelish anſwering he did, the deponent and the ſaid John Roy Maccorquodale carried the pannel over a burn adjoining to the ſaid houſe of Kintalline in the road to Aucharn; upon which the pannel told them, they were better at that than in doing what they ought to do, and that it was to ſide with Glenure, not with him, that they were there; and aſked the tenants then preſent, what kept them there ſo late, and why they did not go home in proper time of night? and, they anſwering that they were there waiting upon him, the pannel replied, that it was not waiting upon him they were, but upon Glenure, to ſee what they could get by him: that he continued at ſuch converſation as this, till they came to the fields of Auchindarroch, hard by Aucharn, when the ſaid John Maccombie, *alias* the ſon of Duncan Macilchallum ſaid, that he was told that Glenure had a drawn hanger in the room where they had been drinking, after the pannel and his uncle were carried out, declaring that he would not allow them to return to his company any more that night; upon which the pannel aſked them, why he did not tell him that before he came away from the houſe, that he might ſee if it was true, and what Glenure meant by it? and inſiſted then on going back to know the truth of it; but, the deponent and the other tenants declaring they would not allow him to go back, he bid them go about their buſineſs and leave him, which they accordingly did; and the pannel and the ſaid

James

James Stewart, his uncle, went to Aucharn attended only, as he remembers, by the deponent and a boy-herd named Duncan Maccannanich: that when this happened, the pannel James Stewart and his uncle were very drunk. Depones, That ſome time in March laſt, when the deponent, and John More Maccoll were harrowing the tath field at Aucharn, being the ſame day, or the day after the pannel went for Edinburgh, Allan Breck Stewart walked for a good time about the field and, as they were looſing their horſes, the ſaid Allan Breck and they entered to converſation about France, and people from this country there and John More Maccoll aſked if there was any proſpect of any of them's coming back? upon Allan Breck's anſwering he was afraid they would not, John More ſaid he wiſhed that none had ever come from that country; in which the ſaid Allan joined him, ſaying it had diſperſed the friends he moſt regarded; and that it was a particular misfortune that the management of any concerns they left behind them, fell into the hands of one that was about to ſhew them no manner of favour; and declared that he meant Glenure and told that the commoners of Appin were little worth when they did not take him out of the way before now; and, upon their ſaying no body would run that riſque not knowing who would ſtand by them, Allan anſwered that he knew a way to convey out of the way any perſon that would do it in a way that he would never be catched; and alſo ſaid, that they and the tribe they were of (meaning the Maccolls) were not like to be the leaſt ſufferers by Glenure's proceedings. Depones, That the

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firſt time he ſaw Allan Breck Stewart at Aucharn was about the beginning of the oat ſowing which was pretty far advanced in the month of March: that he was then dreſſed in a ſide blue coat, red waiſtcoat and black breeches with a hat and feather: that, while he was in the country of Appin, he was for the moſt part at the pannel's houſe, but that he was abſent once for a conſiderable time, when he ſaid he was at Rannoch: that the deponent ſaw him when he ſaid he was going to Rannoch: that he was then dreſſed in a black ſhort coat with ſilver buttons belonging to the pannel, blue trowſers ſtrip'd with white, and a dun great coat which the deponent thinks belonged to Allan Stewart the pannel's ſon; and, being now ſhown the two black ſhort coats in the clerk's hands, depones, That the coat with the ſilver buttons on the pockets belonged to the pannel, and is the ſame the ſaid Allan Breck had on when he ſaid he was going to Rannoch as aforeſaid; and the other coat with no buttons upon the pocket belonged to Allan Stewart the pannel's ſon. Depones, That he ſaw him have on the ſame dreſs when he came back from Rannoch. Depones, That he does not mind to have ſeen the ſaid Allan Breck wear the ſaid ſhort coat at any other time except upon Monday and Tueſday the 11th and 12th of May laſt. Depones, That, upon Monday the 11th day of May laſt, he went to the wood for fire-wood, and, upon his coming home in the afternoon, he found the ſaid Allan Breck dreſſed in the ſaid black ſhort coat, working at potatoes along with John More Maccoll and John Beg Maccoll two of the pannel's ſervants, having on his own black

breeches,

breeches. Depones, That he ſaw the ſaid Alla
Breck, upon Tueſday morning the 12th of Ma
laſt, in the pannel's houſe, dreſſed in the ſaid blac
coat belonging to the pannel, and blue trowſe
ſtrip'd with white, ſuch as now ſhown to him i
the clerk's hands, and a blue bonnet. Depone
That the deponent was told the ſaid Allan Brec
left Aucharn early upon ſaid Tueſday, and the de
ponent has not ſeen him ſince. Depones, Tha
upon Friday evening the 15th of May laſt, th
deponent and John Beg Maccoll overtook Katha
rine Maccoll ſervant to the pannel, in the brae a
bove the houſe of Aucharn, with a pock or ſac
and ſomething in it under her arm; the depone
aſked her what ſhe had got in the ſack? to whic
ſhe anſwered, that it was Allan Breck's cloath
and that ſhe was going to hide them; and the de
ponent and the ſaid John Beg Maccoll ſaw her hid
the ſack in which the ſaid cloaths were; and th
this happened about four o'clock in the af
afternoon. Depones, That, upon Thurſday even
ing, the 14th day of May laſt, after notice
Glenure's murder came to Aucharn, Allan Stewar
ſon to the pannel, deſired the deponent and Joh
Beg Maccoll to hide a large Spaniſh gun that uſe
to ſtand in the brew-houſe; and told them, that h
himſelf had concealed a leſſer gun that uſed
ſtand at the end of the girnel in the barn, und
the ſaid girnel where he thought it would be saf
Depones, That the deponent, and the ſaid Joh
Beg Maccoll, on the ſaid Thurſday evening, h
the large or Spaniſh gun that uſed to ſtand in th
brew-houſe under the thatch of the ſheep-houſ
and three ſwords they took out of the barn, and

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fourth that was brought by John Beg Maccoll, the deponent does not know from whence, under the thatch of the back of the barn. Depones, That, about four o'clock, Friday the 15th of May laſt, the pannel deſired the deponent to carry the above arms from the houſes, and hide them in the moor: that accordingly the deponent and John Beg Maccoll took the foreſaid large gun from the back of the ſheep-houſe under the thatch, and the ſaid four ſwords from under the thatch of the barn, and found the gun that uſed to ſtand in the barn under the girnel, where the ſaid Allan Stewart, the pannel's ſon, ſaid he hid it, and carried them to the moor, and hid them in the hole of a rock, above the peat moſs: and that it was told at Aucharn, that there were ſoldiers coming to the country before theſe arms were hid in the hill as above. Depones, That the ſaid John Beg Maccoll and the deponent had the above arms, when they overtook Katharine Maccoll as aforeſaid with the cloaths. Depones, That the large or Spaniſh gun that ſtood in the brew-houſe was charged with powder and ſmall drops: and that there was no ſhot in the ſmall or leſſer gun that uſed to ſtand at the end of the girnel in the barn; but Allan Stewart, the pannel's ſon, carried out the ſaid gun two or three mornings, in order to ſhoot black cocks in the latter end of March, or beginning of April laſt. Depones, That Allan Breck Stewart was alſo in uſe to carry out the ſaid large or Spaniſh gun to ſhoot black cocks; and, about that time, ſaw him endeavour to help the lock of the ſaid gun with a file: and, being interrogate for the pannel, depones, That he, the deponent, has no ſkill about guns; but heard the ſaid Allan Breck and Allan Stewart, the pannel's

nel's ſon, more than once complain, that the guns were in bad order. Depones, That, when the deponent came home from the wood upon Monday, the 11th day of May laſt, the pannel was not at home; and the deponent was told, he was gone to Keels to meet the laird of Airds: and that the deponent had gone to bed before the pannel came home that night: and that, early upon Tueſday morning, when the deponent got up, he ſaw the pannel without, who told him, that he was going to Appin's houſe: and that, to the deponent's knowledge, Allan Breck, or the pannel's ſons, were not then up: that he ſaw the pannel go towards Letterſhuna where Appin lives. Depones, That Allan Breck Stewart left Auchara before the pannel returned from Letterſhuna: and, upon an interrogatory put for the pannel, if the pannel had given the ſhort black coat the deponent ſaw the ſaid Allan Breck wear, and which he has deponed, belonged to the pannel, was given by the pannel to the deponent or any other of his ſervants before the ſaid 11th of May, depones, That the ſaid black coat was not given to him, the deponent, nor to any other of the ſervants to his knowledge: and, being interrogate for the purſuers, after ſhowing him the powder-horn, now in the clerk's hands, and which had been formerly ſhown him, when he was examined upon the precognition, whether he had ever ſeen it before the time of taking the ſaid precognition? depones he never did: and, being interrogate for the pannel, depones, That Glenure and Ballieveolan dined at the pannel's houſe, in company with the pannel the day after they were

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like to have quarrelled at Kintalline as aforeſaid. Depones, That it was ordinary for the pannel to give a dram to his ſervants every time he diſtilled a double draught of whiſky. Depones, That the double draught was a-diſtilling when the deponent and the other ſervants got the dram mentioned in the firſt page of this depoſition. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God; and declares he cannot write.

(Signed) ARCH. CAMPBELL. JA. FERGUSON.

John Beg Maccoll, ſervant to James Stewart pannel, aged twenty ſeven years, unmarried, ſworn, purged, and examined *ut ſupra*, by the ſworn interpreter, depones, That, the latter end of Winter, or beginning of Spring laſt, early in a morning, the pannel gave a dram to the deponent, Dougal Maccoll, and John More Maccoll, both ſervants to the pannel, in the pannel's brew-houſe: that, the converſation falling upon Glenure, the pannel complained that Glenure was no friend of his; but that that was not the worſt of it; but that, if he was to go on as he did, it was likely, in five years, he would be laird of Appin; and the deponent and the other two Maccolls anſwering, that that was likely to happen; the pannel replied, that he knew once a ſet of commoners in Appin who would not allow Glenure to carry matters with ſuch a high hand; and to which the deponent and the other two Maccolls anſwered, that they did not believe there was any commoner in Appin that durſt contend or ſtrive with Glenure in ſuch a way: that, immediately thereafter, the deponent and Dougal Maccoll went out of the

brew-houſe, leaving the pannel and John More Maccoll there. Depones, That, after they went out of the brew-houſe, either that day, or ſome time thereafter, the deponent and Dougal Maccoll talked together, what the import of this converſation might be; and that the deponent was at a loſs whether to conſider it as an encouragement to deſtroy Glenure, or as a complaint againſt the commoners of Appin, as not being ſo faithful to the pannel as he expected them to be. Depones, That, in March laſt, Allan Breck Stewart came to the pannel's houſe, late in the evening, dreſſed in a blue ſide coat, red waiſt-coat, and black ſhag breeches, and a feathered hat: that he looked into the kitchen, and went immediately to the room, where the pannel and his family were: that afterwards he uſed to go to the country to different places, and come frequently back to the pannel's houſe: that once he remained there a week which is the longeſt time he ſtaid there at one time. Depones, That the ſaid Allan Breck Stewart came to the pannel's houſe from Faſnacloich upon Monday the 11th of May laſt, about mid-day, dreſſed as above: that, upon the evening of the ſaid day, the deponent ſaw the ſaid Allan Breck dreſſed in a black ſhort coat with ſilver buttons. Depones, That there was two ſhort black coats, with ſilver buttons, in the pannel's houſe; the one belonging to the pannel, and the other to Allan Stewart his ſon; the deponent does not know which of them the ſaid Allan Breck had on. And depones, That the coats were ſo like, that he could not diſtinguiſh the one from the other. And depones, That it was one

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theſe black coats he had on, the deponent having ſeen him, the ſaid Allan Breck, near the houſes, in his ſide cloaths; and, ſome time thereafter, coming from the houſe, dreſſed in the ſaid ſhort coat, in the evening of the ſaid Monday the 11th of May, and came where the deponent and John More Maccoll were covering potatoes, and wrought with them for ſome time. Depones, That, ſome time thereafter, a young lad, brother to Glenco, by name Donald, as the deponent thinks, came to them, and told that Glenure was come home from Edinburgh, and was to go to Lochaber; upon which, ſome converſation happening about removing the tenants, Allan Breck ſaid, devil a bit of the new tenants would get poſſeſſion unleſs they had a warrand to ſhow, or come in by force. Depones, That, when the ſaid Allan Breck came, upon the 11th of May laſt, to Aucharn, the pannel was ſeeing the deponent John More Maccoll and Dougal Maccoll working at potatoes: and that Allan Stewart the pannel's ſon was likewiſe there: that, when Allan Breck came, they were ſitting all together; and that he ſeated himſelf by the pannel, and had ſome converſation in Engliſh, which the deponent does not underſtand. Depones, That Charles Stewart ſon to the pannel and Stewart daughter to Faſnacloich came to Aucharn from Faſnacloich, a little after the ſaid Allan Breck. Depones, That, upon Thurſday, the 14th of May laſt, the pannel gave a letter to the deponent to be delivered to Charles Stewart notary public at Maryburgh; and told the deponent, that the letter was to make or cauſe the ſaid Charles Stewart come

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to the country of Appin to proteſt againſt Glenure, in caſe he had not a ſufficient warrand to remove the tenants of Ardſhiel. Depones, That the pannel deſired the deponent to make all poſſible diſpatch, and deſire John Breck Maccombie at Kintalline, and the ſaid John More Maccoll, ſervant to the pannel, who was then at Kintalline, to ferry the deponent from Kintalline to Onich, being much ſhorter than the ferry of Ballacheliſh. Depones, That the pannel alſo told him, that he was to get ſome money from William Stewart merchant at Maryburgh, to pay for milk cows that were bought for him in the country; and that, if the money was not ſent, he would not get the cows. Depones, That he was ferried from Kintalline to Onich, and went on to Fort-William, and met Glenure at the three-mile water, who aſked the deponent from whence he came? to which the deponent anſwered, that he had come over Keilis. Depones, That, being acquainted with Glenure's ſervant, he had ſome converſation with him, and told him, he was going to Fort-William. Depones, That he ſet out from Auchnacharn, about ſeven or eight o'clock in the morning, and made all the diſpatch he could to Fort-William, where he arrived about twelve o'clock. Depones, That, when he came to Fort-William he delivered the letter he got from the pannel to William Stewart merchant in Maryburgh, who told him, that Charles Stewart the notary was not at home, he having gone to the braes of Lochaber in the morning; and told the deponent, that he the ſaid William, had wrote to the pannel in the morning; and that there was a notary along with

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Glenure, who would ſerve the pannel as Glenure. Depones, That he does not remember that he aſked for any money from William Stewart, nor did he give him any, but ſaid, he would ſend ſervants for the cattle. Depones, That he ſtaid a very ſhort time at Fort-William: that the ſaid William Stewart aſked him, if he wanted victuals? upon the deponent's anſwering he did not, the ſaid William brought him into his houſe, and gave him a dram; and the deponent immediately returned back by the ſhort road to the ferry of Ballacheliſh, and found Glenure at the ferry before him: that the deponent required of the ferry-man to ferry him immediately, and the ferry-man deſired him to ſtay till he would be ferried with Glenure's horſes; but the deponent obſerved to him that the ſtream was rapid, and might draw ſome time before they would ferry the horſes, he ought to ferry him immediately, which he accordingly did; and that this might be about four o' clock: that, upon his croſſing the ferry, he met Archibald Maciniſh ferryer upon the Appin ſide, to whom he told where he had been, and his errand; and that the ſaid ferryer told the deponent that he was informed by a man, that he was going to meet Glenure: that the new tenants, that were to come to Ardſhiel, had come to Glenduror with their cattle; and were to take poſſeſſion next day; and the deponent told him, that he did not believe they would get poſſeſſion till their warrands were ſeen. Depones, That, a little thereafter, he met Alexander Stewart elder of Ballacheliſh, to whom he told where he had been, and his errand, and the converſation he had with the ferry-man, and

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Ballacheliſh deſired him to tell his maſter, if he would ſend for him, he would go along with him to ſee Glenure's warrand. Depones, That he paſſed through the wood of Lettermore, and met o ſaw no body there: that he went then home and gave the pannel an account of his errand: tha he was hardly an hour there when John Mackenzie, Glenure's ſervant, came to the door calling for the pannel: that the pannel went immediately to the door, and aſked the ſervant, what was the matter? and what news he had? to which the ſervant replied, the worſt I ever had; my maſter i murdered in the wood of Lettermore; upon which James Stewart ſaid, Lord bleſs me, was he ſhot to which the ſervant anſwered, that he was ſhot and ſaid, the pannel ought to go and take care o his corpſe: that the ſervant immediately went off but neither the pannel nor any of his family wen near the corpſe; and the pannel ſaid, that, as h and Glenure were not in good terms, and ſome o the people that were to meet Glenure had arms he did not care to go near them, not knowing what might happen. Depones, That his maſte ſaid, that this was a dreadful accident, and was afrai would bring trouble on the country; and appear ed to be ſorry for what had happened. Depones That, upon the evening of Friday the 15th of Ma laſt, the deponent and the ſaid Dougal Maccoll o vertook Katharine Maccoll, ſervant to the pannel going up the brae above the houſe with a ſack an ſomething in it under her arm, and the ſaid Dou gal Maccoll aſked her, what ſhe had got there to which ſhe anſwered, that it was Allan Breck cloaths which ſhe was going to hide; and ſhe hi

them accordingly in the deponent's preſence. Depones, That, when the ſaid Allan Breck came firſt to Aucharn, he uſed to lie in a room in the lower end of the houſe; but afterwards he and the pannel's ſons, and any young people that came about the houſe, when the ſeaſon was more advanced, uſed to lie in the barn. Depones, That, upon the ſaid Friday evening the 15th of May laſt, Margaret Stewart, the pannel's wife, deſired the deponent and the ſaid Dougal Maccoll to hide all the arms that was about the houſe, as there were a party of ſoldiers coming to the country: that accordingly they took two guns and three ſwords and a fourth ſword was delivered to the deponent by Allan Stewart ſon to the pannel; which two guns and four ſwords the deponent and the ſaid Dougal Maccoll hid in the brae a good way above the pannel's houſe; and the two guns in the clerk's hands being ſhown to the deponent, depones, That theſe were the ſame two guns that were hid as above. Depones, That the largeſt of the guns, now ſhown the deponent, was loaded, and lay in the brew-houſe; and the deponent believes, that either Allan Stewart the pannel's ſon, or Allan Breck Stewart charged the ſaid gun; for the deponent ſaw Allan Breck Stewart have the ſaid gun ſome time before, and go with it in order to ſhoot black cocks: that, late on Thurſday evening the 14th of May laſt, after notice came of Glenure's murder, the ſaid Dougal Maccoll told the deponent, that the pannel's wife had deſired to hide all the arms about the houſe, not knowing but that ſome ſoldiers might come to the country; upon which the deponent and the ſaid Dougal carried

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the ſaid loaded gun from the brew-houſe, and hi
it under the thatch upon the outſide of the ſheep
houſe, and carried three ſwords out of the barn
and hid them under the thatch upon the outſid
of the ſaid barn, being that barn where the pan
nel's children and Allan Breck uſed to lie: tha
upon their being deſired by the ſaid Margare
Stewart next day to hide the arms better, the
took the foreſaid loaded gun and three ſwords ou
of the places where they had hid them; and upo
their inquiring for the other gun that uſed to li
in the ſaid barn, Allan Stewart, the pannel's ſon
told them, he had hid it under the large girnel i
the barn, and told them they need not ſtir it as
was ſafe enough there; but they anſwered, as the
were hiding the reſt, they would hide that likewiſ
and accordingly the deponent went and took th
ſaid gun from the girnel where the ſaid Allan to
him he had hid it, and concealed them all togeth
as above: upon recollection depones, That
was upon the Thurſday evening the deponent an
the ſaid Dougal Maccoll inquired about the litt
gun which lay at the end of the girnel in the bar
and that the ſaid Allan Stewart ſon to the pann
told them he had hid it, as above, under the girne
Depones, ſo far as he can remember, he did n
ſee the ſaid little gun upon Thurſday, but ſaw
ſtand, as above, either upon Tueſday or Wedne
day preceeding, and uſed for ſome time preceedi
to ſee it ſtand in the ſame place. Depones, Th
it was upon Friday evening the deponent took t
ſaid gun from under the girnel where the ſaid A
lan had hid it; and adds, that the reaſon he d

not ſee it on the Thurſday was, that he was from home almoſt all that day. Depones, That he did not ſee the ſaid little gun loaded ſince March laſt, when the black cocks were crouding; that then there was a ſhot of drops in it, and the ſaid Allan Breck carried it out one morning, and told that it miſgave with him thrice at a black cock, and ſhot with it the fourth time without killing the black cock. Depones, That the brew-houſe, where the ſaid large gun uſed to be was always locked but when people were in it: that the barn where the ſaid little gun ſtood, had a lock and key, but was not in uſe to be locked ſince the crop was removed out of it, which was at the time they were done with their oat-ſeed, which was ſome time before May-day. And, being interrogate for the pannel, depones, That neither of the guns were in good order: that the large or loaded gun was in uſe, when going to be snapped, to ſtand at half cock, and the little gun was in uſe to ſnap or misfire. Depones, That the little gun had an old wore flint in it; and that he obſerved this flint in the ſaid gun when he was in uſe to ſee it ſtand at the end of the girnel as above, but did not obſerve whether it had a flint or no when he took it from under the girnel as above. Depones, That he knows no fault the lock of the little gun had, but its being in uſe to misfire; and that the lock was on the ſaid gun when he hid it the Friday evening as above. Depones, That when Allan Breck came, upon Monday the 11th of May laſt, to the place where the pannel, deponent, and others, were covering potatoes as above, they had ſit together but for a-

bout a quarter of an hour; the deponent went to work at potatoes at a greater diſtance, and, before he went away, heard a meſſage had come for his maſter, to meet Airds at Keil, and heard his maſter ſpeak of going there; but when he went, or who went along with him, the deponent does not know: that the deponent continued working at the potatoes till the evening, and the pannel was not come home when he came from his work: that the pannel came home at bed time, accompanied with John More Macilichattan, who lay with the deponent that night. Depones, That it was a while after (the deponent cannot ſay how long) the pannel parted from the deponent and the other people that wrought at the potatoe-ground: that Allan Breck came dreſſed in the black ſhort coat as above, and wrought with them at the potatoes. Depones, That they all got up together, after the ſaid Allan Breck came to them, and ſat with them as above; and he thinks the pannel went then towards the houſe. Depones, That Allan Breck and the pannel were in uſe to converſe together, ſometimes in Engliſh, and ſometimes in the Iriſh language. Depones, That, when he went to Fort-William, with the above letter, to Charles Stewart the notary, he had no orders from his maſter to inquire after the motions of Glenure, or to acquaint any body there of. Depones, That he never ſaw the ſaid Allan Breck Stewart change his cloaths, and put on ſhort cloaths, at any time, at the ſaid James Stewart's houſe, before the ſaid 11th of May; but that, as the deponent beſt remembers, at the time the ſaid James Stewart was at Edinburgh, he ſaid

the ſaid Allan Breck dreſſed in a black ſhort coat, a dun big coat which the deponent thinks belonged to Allan Stewart the pannel's ſon; and he heard the ſaid Allan Breck, or others about the houſe, ſay, that he was then going to Rannoch. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God; and depones he cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Captain *David Chapeau*, in general Pultney's regiment of foot, married, aged fifty two, witneſs cited, ſworn, purged and examined *ut ſupra*, depones, That, upon the 23d of May laſt, he was informed by Mr. Campbell of Barcaldine, that there were ſome arms hid among the rocks near the pannel's houſe; and was, at the ſame time, ſhown the paragraph of a letter from colonel Crawford, who commands the regiment to which the deponent belongs, addreſſed to Barcaldine, wherein the colonel deſired the deponent to go in ſearch of ſuch arms. Accordingly the deponent went that day with a party, and took along with him Mr. Patrick Campbell of Auchinſicallan, to direct him the road; and, when they came to a hill above the pannel's houſe, Mr. Campbell found concealed in a hill, above the pannel's houſe, two muſkets, and four broad ſwords, whereof having informed the deponent, the deponent went and ſaw them taken out. And the muſkets or fuzees, now in the clerk's hands, being ſhown to the deponent, depones, That they are the very ſame fuzees he ſaw taken out as aforeſaid: and depones, that the largeſt of the two fuzees was loaded, and the other not; and that, having drawn the

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ſhot of the loaded piece, found it to be loaded with ſmall ſhot, by which he means drops and ſmall ſlug mixed together: and it appeared to the deponent, that the ſaid unloaded piece had been lately fired, having put his finger in the muzzle which he brought out black. And, being interrogate for the pannel, whether a piece which is laid by foul, will not, after a month's time, foul one's finger, when put in the muzzle of it, as well as when it has been lately fired? depones, He cannot tell, not being accuſtomed to ſee arms uſed ſo. And depones, That the ſaid unloaded piece had a lock upon it at the time; but which had only one ſcrew nail in it. But depones, That a gun, having a lock with one ſcrew nail, may be fit enough to be fired with. And adds, That the end of the lock wanting the nail, was tied to the ſtock by a ſtring. Depones, That the pieces, or fuzees, were carried along to Fort-William, where the deponent delivered them over to the adjutant at Fort-William; and does not know by what means the ſaid lock, upon the ſmall piece, now amiſſing, was loſt; but believes it to have been by accident. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) D. CHAPEAU. JA. FERGUSON

Patrick Campbell in Auchinſicallan, married aged thirty three years, witneſs cited, ſworn, purged, and examined *ut ſupra*, depones, That, ſome time in May laſt, he thinks on the 23d, he was called by captain Chapeau to go along with him to Aucharn in ſearch of arms; and, having come

to a moſs, above the pannel's houſe of Aucharn, the deponent diſcovered two guns in a cove; whereupon he immediately called to the captain, who was with him, when they were taken out of the cove; as alſo, there was alſo there three or four broad ſwords. Depones, That one of the guns was heavier than the other; and the lighteſt gun had a ſtick laid along the lock tied by a ſtring about the ſtock: but, whether the ſaid lock had any ſcrew nail, or not, he does not remember: and that theſe arms were carried away by captain Chapeau. Depones, That the lighteſt of the ſaid two guns was unloaded, and the heavieſt loaded: that he ſaw the ſhot of the loaded gun drawn, which conſiſted of drops, with ſome ſmall ſlug among them. Depones, That, in order to know whether the unloaded piece had been lately fired, ſeverals put their finger in the muzzle of it; and particularly the deponent; and, the finger coming out black, he, and the reſt with him, from thence concluded, that it had been lately fired. And, being interrogate for the pannel, whether a muſket that has been laid by foul, after firing, will not, in like manner, file a man's finger put in the muzzle of it, after it has been fired a month or longer before? depones, That he never made that trial upon a gun that he knew to have been ſo long before fired. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) PAT. CAMPBELL. JA. FERGUSON.

William Stewart merchant in Maryburgh, aged thirty ſix years, married, ſworn, purged, and examined *ut ſupra*; and, being ſhown a letter, dated

dated at Maryburgh the 14th of May laſt, ſigned William Stewart, and addreſſed on the back to the pannel, being the writing number 10. in the inventary ſubjoined to the libel; depones, That the letter is of his hand-writing, and was ſubſcribed by him, and ſent to the pannel, of the date it bears, by Ewan Mackenzie a common carrier in Maryburgh. And, being alſo ſhown a letter dated at Aucharn, the 14th of May laſt, eight o'clock in the morning, ſigned James Stewart, and addreſſed on the back to Mr. Charles Stewart writer at Auchintour, depones, That the ſaid letter was wrote by the pannel, and ſent, of the date it bears, by John Beg Maccoll, and in abſence of the ſaid Charles Stewart, who was not then at Maryburgh, was delivered by the ſaid Maccoll to the deponent, who broke it open, and told Maccoll, that Charles Stewart was not then in Maryburgh, but that he expected him that night, but thought that he could not go along with Maccoll: that Maccoll aſked the deponent if he ſhould wait for him, or go after him? the deponent anſwered, it was needleſs; for, if Charles Stewart could go, he would take a boat. And, being interrogate whether he wrote any anſwer by John Maccoll, or, if he gave him any verbal anſwer to the poſtſcript, wherein the pannel wrote to Charles Stewart, to tell the deponent to ſend him eight pounds Sterling? depones, he gave no anſwer in writing; and thinks he did not give any verbal anſwer, if it was not that he bid him tell his maſter, he was not in caſh, which was the caſe. And depones, That the deponent was himſelf intended by the William in the poſtſcript.

Depones

Depones, That Maccoll did not ſtay three minutes with the deponent, when he went away. Depones, That the next day, being Friday, or the day thereafter, the deponent had a meſſage from the pannel about ten o'clock forenoon, or betwixt ten and twelve, by Alexander Stewart packman, who told the deponent, that he was ſent by the pannel to Glenevis, and was ordered in his way to call at the deponent to ſend the pannel five pounds Sterling; and that his errand to Glenevis, was, to deſire him to ſend for a horſe that he had bought from the pannel: that the deponent told the packman, that he was not in caſh, and could not ſend the five pounds; upon which the packman ſaid, that the five pounds was to relieve ſome cows that the pannel had bought for the deponent at Ardſhiel; and, if the deponent did not ſend the money, he could not get the cows: that the deponent ſaid, he was indifferent, but had not the money to ſend; upon which the deponent's wife deſired the packman to go forward to Glenevis, and to call there in his return, and he would get the money, becauſe they could not conveniently want the cows: that the packman accordingly went away; and the deponent's wife, as ſhe afterwards told him, for he was not preſent, gave him three guineas: that the deponent is ſure the money was not given on a Sunday, and thinks it was on a Saturday; and therefore believes it was upon Friday the 15th, that the packman firſt called the deponent, being certain, that a night interveened betwixt his calling and getting the money. Depones, That he had no converſation with the packman touching Allan Breck Stewart,

whoſe

whoſe name was not mentioned by either of them; but the deponent aſked him, if he had come by the road where that unlucky murder of Glenure had happened? and the packman told him, he did; but the deponent did not aſk him who was ſuſpected for it; nor had any other converſation on that ſubject, there being a great many people preſent in the ſhop at the time. Depones, That the deponent received two of the cows about eight or ten days after, and other two he did not get at all. And, being interrogate for the pannel, depones, That, upon Allan Breck Stewart's firſt coming to this country, which was in the month of February or March laſt, the deponent ſaw him at Edinburgh: that thereafter, upon the 1ſt of May laſt, the deponent happening to be at the pannel's houſe, Allan Breck Stewart came there from Rannoch, and was dreſſed in a ſhort black coat with clear buttons, ſuch as theſe now lying in the court. Depones, That, when the deponent ſaw Allan Breck Stewart at Edinburgh, which, he thinks, was in February, he told the deponent, that it was then but three or four days ſince he arrived from France. Depones, That, at that time, Allan Breck Stewart was dreſſed in long cloaths, a blue coat, and, as the deponent thinks, a red veſt, a hat feathered in the inſide. Depones, That, when the deponent was at the pannel's, the 1ſt of May, Charles Stewart was there alſo, in order to go to Glenure and intimate a ſiſt that had been obtained in name of the tenants of Ardſhiel upon a bill of ſuſpenſion of a removing against them. Depones, That Allan Breck Stewart told the deponent, that he had been a ſoldier in th

the King's troops at the battle of Preſton; and he thinks, he ſaid, it was in Laſcelle's regiment, but is not poſitive, whether it was Laſcelle's or Murray's. And depones, That thereafter he was in the rebellion. Depones, That, when he was at the pannel's houſe, the 1ſt of May, as aforeſaid, he did not ſleep within the pannel's houſe, and ſeemed to be on the watch, leſt he ſhould be ſearched for; and, being interrogate, whether Allan Breck Stewart did not then lie in the barn, and ſome of the pannel's children with him? he ſays, it is very probable he might; but the deponent knows nothing of it; for the deponent ſaw him next morning, and, he thinks, breakfaſted with him at the pannel's houſe. Depones, That the deponent is firſt couſin to the pannel, and alſo his brother-in-law. Depones, That, before Charles Stewart went with the tenants to Glenure's houſe, upon the 1ſt of May, the deponent heard the pannel ſay to the tenants, that they might go, or not, as they thought proper; but he would be far from adviſing them. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) WILLIAM STEWART. P. GRANT.

Barbara Watt ſpouſe to William Stewart, merchant in Maryburgh, aged twenty eight years, ſworn, purged, and examined *ut ſupra*, depones, That the day immediately after the murder of Glenure, about mid-day, Alexander Stewart packman brought the deponent's huſband, the preceeding witneſs, a meſſage from the pannel, to ſend him five pounds Sterling to pay for ſome cows,

that the pannel had bought for him: that the deponent's huſband was angry at the meſſage, and ſaid, that he had not then the money to give, having given away ſome money that morning; but that tho' he had it, he would not ſend it; and the packman anſwered, that he was a ſufficient *but* himſelf for all the ſum, tho' the pannel had not ſent for it: that the packman told at the ſame time, that he was going to Glenevis on ſome meſſage from the pannel touching a horſe; therefore the deponent interpoſed, and deſired the packman to call there in his return from Glenevis, and he would get the money; for that they behoved to have the cows to ſtock a farm they had: that this converſation happened in the deponent's ſhop, where ſeveral other perſons were preſent. Depones, That, next day in the afternoon, the deponent's huſband not being then at home, the deponent met the packman in the ſtreet of Maryburgh, and happening to have three guineas then in her purſe, ſhe gave them to him there in the ſtreet, and called her ſervant-maid to be witneſs, becauſe there was no letter from the pannel, nor receipt to be given by the packman. *Cauſa ſcientiæ patet.* And this is truth, as ſhe ſhall anſwer to God.

(Signed) BARBARA WATT. P. GRANT.

Alexander Stewart travelling packman in Appin aged thirty, unmarried, witneſs cited, ſworn, purged, and examined *ut ſupra*, by Archibald Campbell writer in Inverary, ſworn interpreter foreſaid, depones, That, upon Friday the 15th day of May laſt, about twelve o'clock, the pannel deſired the

deponent

deponent to go to Fort-William, to William Stewart merchant there, and get from him five pounds, or five guineas, and told the deponent, that his friend Allan Breck was about to leave the country, as there were troops coming into it, and that he might be ſuſpected of Glenure's murder; and that it was incumbent upon him, the pannel, to ſupply the ſaid Allan Breck in money; and the pannel deſired the deponent to tell the ſaid William Stewart, that he muſt ſend him money, tho' he ſhould borrow it from twenty purſes; and deſired him alſo to tell the ſaid William to give credit in five pounds Sterling to John Breck Maccoll bouman to Appin, at Koaliſnacoan; in caſe he came to demand ſuch a ſum; and the pannel deſired the deponent to demand four pounds Sterling more from the ſaid William, as the price of a couple of milk cows bought for him. Depones, That, in conſequence of the above meſſage, he went to Fort-William, where he arrived early in the evening: that he met the ſaid William Stewart, and demanded from him for the uſe of the pannel the two ſums above mentioned: that the ſaid William told him he had not money, but deſired the deponent to go to Glenevis, and that he, the ſaid William, had buſineſs to Glenevis, would meet the deponent there in the morning, and give him his errand. Depones, That the pannel deſired the deponent to tell the ſaid William Stewart to ſend notice to Glenevis, that he ſhould ſend for a ſtoned horſe Glenevis had bought from the pannel. Depones, That he went to Glenevis, where he arrived about ſun-ſet, and ſtaid there the ſaid Friday's night: that as the ſaid William did not

come

come there Saturday morning, the 16th day of May laſt, the deponent went back to Fort-William, and met the ſaid William Stewart upon the ſtreet, and aſked him, if his anſwer was ready? that the ſaid William ſaid, that he would let him go immediately, and went into his own houſe, and immediately thereafter Mrs. Stewart, ſpouſe to the ſaid William, came to the door, and gave the deponent three guineas, with which the deponent went back immediately to Aucharn, and arrived there in the evening of the ſaid Saturday the 16th of May: that when he came to Aucharn, the pannel was not at home; but ſoon after the deponent's arrival, notice came, that the pannel and Allan Stewart his ſon were made priſoners at Inſhaig, a place of about a quarter of a mile from Aucharn: that, immediately upon this notice, Mrs. Stewart the pannel's wife and the deponent went to Inſhaig, and by the way the deponent offered the three guineas he had brought from Fort-William to Mrs. Stewart, but ſhe deſired him to keep them: that, upon their arrival at Inſhaig, they found the pannel a priſoner; but Mrs. Stewart and the deponent having had acceſs to converſe with the pannel apart, the pannel aſked the deponent, what money he brought from Fort-William? and upon the deponent's telling him, that he brought three guineas, the pannel pulled a green purſe out of his pocket, out of which he took two guineas, and gave them to Mrs. Stewart, and Mrs. Stewart delivered the two guineas immediately to the deponent; and the pannel deſired, that the five guineas ſhould be ſent to that unhappy man, meaning Allan

Breck

Breck, to ſee if he could make his eſcape; and pitched upon the deponent as a perſon that ſhould go with the money; and does not remember poſitively, that the pannel ſpoke about Allan Breck's cloaths: that ſoon thereafter the pannel was carried off by a party to Fort-William; and the deponent returned to Aucharn with the pannel's wife: that the party and pannel called at Aucharn, and took a dram; and upon their going off, Mrs. Stewart, the pannel's wife, told the deponent, that he muſt go to Allan Breck with the five guineas and his cloaths; and upon the deponent's inquiring where he would find him? Mrs. Stewart told him, that he would caſt up in Koaliſnacoan. Depones, That, ſome time after night-fall, the deponent got his ſupper at Aucharn, and how ſoon he was done eating, Mrs. Stewart, the pannel's wife, carried the deponent to the back of the brew-houſe, where there lay a ſack, out of which the ſaid Mrs. Stewart took a blue ſide coat, red waiſtcoat, black breeches, a hat, and ſome ſhirts, all which ſhe delivered to the deponent, ordering him to go with the cloaths and money to Koaliſnacoan immediately, and deliver them to John Breck Maccoll bouman to Appin, if he did not meet Allan Breck himſelf. Depones, That the ſaid Mrs. Stewart directed the deponent not to carry the cloaths to John Breck Maccoll's houſe, leſt any body might ſee them. Depones, That he declined going, and told Mrs. Stewart, that ſhe might ſend ſome other perſon, and that, at any rate, he did not chuſe to go alone in the night time; but that Mrs. Stewart inſiſted upon his going, telling there was no other

body

body ſhe could ſend, as both her ſervants were gone to Fort-William, and deſired the deponent to carry his ſiſter Margaret Stewart a part of the way with him: that accordingly the ſaid Margaret his ſiſter went along with the deponent as far as Larich in Glenco, where ſhe parted with him about day-light Sunday morning: that thereafter the deponent travelled alone to Koaliſnacoan, and left the cloaths, as directed, at the root of a fir-tree, at ſome diſtance from the houſes; and as the deponent was going to the houſe, he met ſaid John Breck Maccoll, and aſked him if Allan Breck was there? and upon his denying that he was there, the deponent expreſſed ſome ſurprize, and told that he was ſent with money and cloaths to him; told from whence he came, and how he got the money and cloaths above mentioned; upon which the ſaid John Breck Maccoll told the deponent, that Allan Breck was in the heugh of Corrynakeigh, above the houſe of Koaliſnacoan; and if the deponent inclined to ſee, the ſaid John Breck Maccoll directed him to go to a hill above the houſes and whiſtle, and that the ſaid Allan Breck would come to him: that the deponent anſwered, he had gone far enough after the ſaid Allan Breck already, pointed out to John Breck where he had left the cloaths, and gave him the five guineas to be given Allan Breck. Depones, That he went to the ſaid John Breck's houſe, where he ſlept for ſome time, and thereafter dined with the ſaid John Breck at his houſe. Depones, That the ſaid John Breck Maccoll told the deponent he did not know how the ſaid Allan Breck could leave the country, as he had no victuals

victuals, and he, the ſaid John, had none to give him, and deſired the deponent to go to Mrs. Macdonald of Glenco's houſe at Inver, and get a peck of meal for Allan Breck's uſe, which the deponent refuſed. Depones, That the ſaid John Breck Maccoll told the deponent, that, unleſs he had come with the money and cloaths, he, the ſaid John Breck, would hence been obliged to go to Fort-William for money to the ſaid Allan Breck. Depones, That he, the deponent, came back to Aucharn upon the evening of the Sunday the 17th day of May laſt, and the pannel's wife aſked him, if he had ſeen Allan Breck? and upon his anſwering he had not, and telling that Allan Breck was at Koaliſnacoan, tho' he had not ſeen him, and that he had given the cloaths and money to John Breck, ſhe appeared ſatisfied. Depones, That the ſaid John Breck Maccoll deſired the deponent to conceal his carrying the cloaths and money to Koaliſnacoan, as above; told him, that he could not prove it againſt him, and that he could ſafely depone he did not deliver the cloaths to him, ſince he only pointed out where they were. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God. And declares he cannot write. And further depones, That he is a diſtant relation of the pannel's, tho' he cannot tell the degree: that his father lives at a quarter of a mile's diſtance from Aucharn; and that he, the deponent, uſed to be often in the pannel's houſe. And this is alſo truth, as he ſhall anſwer to God.

(Signed) ARCH. CAMPBELL. P. GRANT.

John

John Breck Maccoll bouman to Appin in Koaliſnacoan, aged fourty years, married, ſworn, purged and examined *ut ſupra*, by the above Mr. Archibald Campbell ſworn interpreter, depones, That, upon the afternoon of Saturday the 16th day of May laſt, as the deponent was in a fir buſh near Aldavoim, at the foot of the heugh of Corrynakeigh in Koaliſnacoan, he heard a whiſtle; and, upon looking up, ſaw Allan Breck Stewart, at a little diſtance, beckoning to the deponent to come towards him; which he did: that, after ſalutations, the deponent told him, he was afraid it was no good action that occaſioned his being in ſuch a remote place, and at ſuch a diſtance from any common road: that Allan Breck anſwered, the place was not very far from a common road: that the deponent, having heard the day before of Glenure's murder, charged Allan Breck with being guilty of it: that Allan Breck aſked the deponent, what he had heard about the murder? that the deponent anſwered, that he had ſeen no perſon from the ſtrath of Appin but that two poor women that had come up Glenco were telling, that Glenure was murdered Thurſday evening in the wood of Lettermore and that two people were ſeen going from the place where he was murdered; and that he Allan Breck, was ſaid to be one of them: that Allan Breck anſwered, he had no concern in it and that, if his information was right, there was but one perſon about the murder; and that, as he was idle in the country, he was ſure he would be ſuſpected of it; but that that would give him little concern, if he had not been a deſerter

which

which would bear harder upon him, in caſe he was apprehended, than any thing could be proved againſt him about the murder: that the deponent did not believe him, when he ſaid he had no hand in the murder of Glenure; and not caring to preſs it much upon him, told him, that, as he was already ſuſpected, it was dangerous to have any intercourſe with him, and preſſed him to leave the place, leſt he ſhould bring the deponent and his family to trouble: that Allan Breck ſaid, he did not doubt but the family of Ardſhiel would be ſuſpected of the murder, and it was probable the pannel and Allan Stewart his ſon might be taken into cuſtody about it; and that he, Allan Breck, was afraid Allan Stewart the pannel's ſon's tongue was not ſo good as his father's; by which words the deponent underſtood, that Allan was eaſier entrapped than the pannel; and the deponent ſtill inſiſting upon Allan Breck's leaving that neighbourhood, the ſaid Allan Breck told him, he would not leave the town for eight days, unleſs ſome neceſſaries he expected came to him; and told the deponent, unleſs ſome money came for him before next morning, he, the deponent, muſt go to Fort-William with a letter: that tho' the deponent refuſed to go, Allan Breck look'd about among the trees, and finding a wood pigeon's quill, made a pen of it, and, having made ink of ſome powder he took out of a powder-horn that was in his pocket, he wrote a letter, which he told the deponent he muſt deliver to William Stewart merchant at Maryburgh; and, upon the deponent's telling him that he would by no means un-

dertake that, as he was informed that every body that went to Fort-William was ſearched, Allan Breck ſaid it was an eaſy matter to hide a letter; the deponent anſwered, if he was catched upon the ſtreets, what would he do with it? Allan Breck told him, that the letter muſt not be found upon him by any means, and, if he was catched with the letter, he muſt eat it before it was found: that the deponent then told the ſaid Allan Breck, that he did not know but he would be obliged to go for ſome beer next day to Fort-William, in which caſe he might poſſibly carry the letter; but at the ſame time, told the ſaid Allan Breck, if he was catched with the letter, he would tell all he knew about him; that the ſaid Allan Breck deſired the deponent to go to Callart or Glenco's houſe for a peck of meal to him, which the deponent refuſed; and at parting, the ſaid Allan Breck told the deponent, he would ſee him next day. Depones, That at the time of the above converſation, the ſaid Allan Breck Stewart was dreſſed in a dun coloured great coat, black ſhort coat, and blue trowſers ſtrip'd with white. And the deponent having ſeen in court the black ſhort coat, with the buttons on the pockets, and the trowſers, depones That they are the ſhort coat and trowſers he ſaw the ſaid Allan Breck wear, or exactly like them. Depones, That, early upon Sunday morning the 17th day of May laſt, as the deponent got up to look about his corns, he ſaw a man, which he at firſt imagined to be the ſaid Allan Breck Stewart, travelling towards him up the glen; but, upon his coming near, the deponent knew him to

be

be Alexander Stewart, travelling packman in Appin (the immediate preceeding witneſs) who is couſin-german by the father's ſide to Allan Breck; and, after ſalutation, and the deponent's expreſſing his ſurprize at ſeeing him ſo early, the ſaid Alexander Stewart aſked the deponent, if he had ſeen Allan Breck? And the deponent refuſing his having ſeen him, Alexander Stewart ſeemed ſurpriſed, and told that he was informed he would meet Allan Breck there; and that he had brought ſome neceſſaries for him: and the deponent inquiring what he had brought, the ſaid Alexander Stewart informed him, that he had brought five guineas and ſome cloaths; and told that he had a great deal of trouble in getting the money: that he had been ſent by the pannel to William Stewart merchant at Fort-William, from whoſe wife he got three guineas; and that the pannel, or his wife, gave him the other two guineas; and that the pannel's wife gave him the cloaths, and informed him, that Allan Breck was to meet him at Koaliſnacoan; but that now he would leave the money and cloaths with the deponent: upon this the deponent told the ſaid Alexander Stewart, that he had ſeen Allan Breck the day before, and that he expected theſe things; and told him, that he believed Allan Breck was then in the heugh of Corynakeigh, and, if he would go to a hill that he deponent pointed out to him, and whiſtle nce or twice, he believed Allan Breck would ome to him: the ſaid Alexander Stewart declined going, alledging he was very much fatigued: hat the deponent told the ſaid Alexander Stewart, hat he wondered he would not go that length to

ſee

ſee his uncle's ſon; the ſaid Alexander Stewart anſwered, that he had ſlept none for two nights, and was very much fatigued; and upon this he delivered to the deponent the five guineas, and told he had left the cloaths at ſome diſtance, and would ſhow them to the deponent when he was going away: that the deponent told the ſaid Alexander Stewart, that Allan Breck wanted a peck of meal from Glenco or Callart's houſe; and that he, the ſaid Alexander Stewart, ought to get it for him; but the ſaid Alexander Stewart refuſed to go for it: that, afterwards, the ſaid Alexander Stewart ſlept in the deponent's houſe. Depones, That the ſaid Alexander Stewart told him, that the pannel and Allan his ſon were made priſoners the evening before, and ſent to Fort-William: and, upon the deponent's inquiring, who was ſuſpected of Glenure's murder? the ſaid Alexander anſwered, that it was Allan Breck, and that it was likely that the pannel and Allan his ſon would ſtand the firſt trial for it. Depones, That the ſaid Alexander Stewart and the deponent dined together; and as the ſaid Alexander Stewart was going away, about twelve o'clock, he pointed out a fir-tree, at the root of which he ſaid he had hid Allan Breck's cloaths. Depones, That, after the deponent had gone to bed, upon the ſaid Sunday evening, he heard one knocking at the window, and imagined it might be Allan Breck, the deponent got up, and went out in his ſhirt, and ſaw the ſaid Allan Breck at a little diſtance from the houſe; and, upon the deponent's coming up to him, the ſaid Allan Breck aſked him, if any meſſage had come for him

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the deponent told him, that his uncle's ſon had come with five guineas, and ſome cloaths: that Allan Breck complained there was but little money, but hoped it would do his buſineſs: that the deponent told the ſaid Allan Breck, he was afraid he would ſtarve among the heather; and that he was not able to help him: that Allan Breck anſwered, he had no occaſion for victuals, but wanted a drink very much: upon which the deponent went back to his houſe, and carried out ſome whey, or ſome milk and water, in a noggin, and the five guineas, and gave both to Allan Breck: that the deponent then went for the cloaths, which he alſo gave the ſaid Allan Breck, which conſiſted of a blue long coat, red waiſtcoat, black breeches, a hat, ſome ſtockings and ſhirts: that the deponent told the ſaid Allan Breck that the pannel and his ſon Allan were apprehended upon account of Glenure's murder; to which Allan Breck anſwered, that that was no more than he expected; but it would not ſignify much, as there could be no proof againſt them; but expreſſed ſome apprehenſion, leſt Allan Stewart, ſon to the pannel, might be betrayed by his own tongue: that the deponent deſired the ſaid Allan, now that he had got all the neceſſaries he expected, to go about his buſineſs; and the ſaid Allan Breck promiſed to do ſo, but told the deponent, that he muſt meet him, the ſaid Allan Breck, next morning; that he muſt deliver the deponent the cloaths he, the ſaid Allan Breck, had then on, to wit, the black ſhort coat and trowſers ſhown to the deponent in the clerk's hands, in order to be kept by the deponent till he delivered them to the pannel's wife:

that

that the deponent promiſed to meet the ſaid Allan Breck next morning, but did not ſee him; and when the deponent went out next morning, he found the ſaid ſhort black coat, trowſers, and the noggin in which the deponent carried the drink to the ſaid Allan Breck, lying together in the place where the deponent parted with the ſaid Allan Breck the night before; and found in one of the pockets of the ſaid ſhort coat the powder-horn now ſhown him, in the clerk's hands; and depones, that he has not ſeen the ſaid Allan Breck ſince. Depones, That, in a converſation the deponent had with the pannel, as the deponent beſt remembers, about two years ago, mention being made of Glenure's being about to take on the management of the eſtate of Ardſhiel from the ſaid pannel, and thereby diſabling the pannel from being of any ſervice to Ardſhiel's children, he heard the pannel ſay, he would be willing to ſpend a ſhot upon Glenure, tho' he went upon his knees to his window to fire it. Depones, That he heard a waif report in the country, that Ardſhiel (attainted) had ſent home a meſſage, that he believed all his friends were dead, when Glenure was allowed to go on at the rate he did. Depones, That, upon the evening of the ſaid Saturday the 16th day of May laſt, Katharine Maccoll, ſpouſe to Hugh Maccoll in Koaliſnacoan, told the deponent, that ſhe had ſeen a man in the heugh of Corrynakeigh that day, at ſome diſtance, and was greatly frighted: that the deponent told her, there uſed to be bogles ſeen in that place, but ſhe muſt take no notice of what ſhe had ſeen, for fear of frighting the women of

the

the town, and prevent them from attending their cattle in that part; and that the reaſon of telling her ſo, was for fear it would be known it was Allan Breck ſhe ſaw. Depones, That, when he found the black ſhort coat and trowſers he ſaw Allan Breck wear, upon Monday morning the 18th of May laſt, he hid them; and that, after he, the deponent, had been ſometime priſoner at Fort-William, he came along with a party of ſoldiers, to whom he ſhewed the place he hid the ſaid cloaths; and the ſaid party took the ſaid cloaths out of the place he had hid them in, in the deponent's preſence, and carried them to Fort-William. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God; and depones he cannot write.

(Signed) ARCH. CAMPBELL. JA. FERGUSON.

Hugh Macclean barber in Maryburgh, aged twenty ſeven years, married, ſworn, purged, and examined *ut ſupra*, depones, That being a barber to his trade, and one day being called by the pannel to the priſon to ſhave him, which he thinks was upon a Saturday, the pannel aſked him, what news he heard in the town? to which the deponent anſwered, that he heard that he, the pannel, was to be carried to Edinburgh on the Monday following: whereupon the pannel ſaid, that that was a matter gave him no concern, and wiſhed it had happened ſooner, and was afraid of nothing but that his ſervants might be inticed to take money, and turn againſt him; and deſired the deponent, as from him, to tell his ſervants to ſay nothing but truth, to keep

their

their minds to themſelves, and he would take care of them; and accordingly the deponent delivered the pannel's meſſage, in his own words, to two of his ſervants who were then in ſeparate cuſtody in the ſame priſon; and that they were both of the name of Maccoll. Depones, That, at this time, the pannel gave the deponent a ſhilling, and ſaid when he came again to ſhave him, he would give him more; but that he never got more from him than the ſaid ſhilling. Depones, That from the pannel he went to his ſon Allan alſo to ſhave him, to whom he told the commiſſion his father had given to be delivered to the ſervants; and the ſaid Allan gave him half a crown. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God; and depones he cannot write.

(Signed) JA. FERGUSON.

Thomas Baird ſerjeant in general Pultney's regiment of foot, aged thirty two years, married witneſs cited, ſolemnly ſworn, purged of malice and partial council; and, having been called in to court, before cloſing of a former depoſition in order to open a bundle containing two ſhort coats, and a pair of trowſers, to be ſhown to preceeding witneſs during his examination; and after opening the ſaid bundle, was removed, and called in again; and, being ſolemnly ſworn and interrogate, depones, That, about the beginning of July laſt, to the beſt of the deponent's remembrance, he was ſent with a party of ſoldiers and a guide along with him, whoſe name, he thinks, was John Breck Maccoll, to a place com-

pute

puted of above ten miles diſtance from Fort-William over Lochleven; but, after paſſing the loch, their guide carried them two miles down the ſide of the loch, and up to the top of a rock, and, out of a clift in the rock, the guide took a ſhort black coat with ſilver buttons, and a powder horn in the pocket, and a pair of trowſers, and gave them to the deponent; and the deponent carried them to Fort-William, and delivered them to colonel Crawfurd. Depones, That one of the black coats, with the powder horn and trowſers, that the deponent took out of the pocket as above mentioned, are the ſame that his guide delivered to him, and which he delivered to colonel Crawfurd, as above deponed. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) THOMAS BAIRD. P. GRANT.

The proſecutors proof being concluded, the pannel, for his exculpation, adduced the following witneſſes.

Hugh Stewart reſidenter in Edinburgh, aged thirty and upwards, married, being ſworn, purged and examined *ut ſupra*, depones, That he knows Allan Breck Stewart to have ſeveral times gone to France, and returned again to this country; particularly that he went to France in the 1747, and returned to Scotland in December 1749; returned to France in May 1751, and came back in February 1752; and, when in this country, he was in uſe to lodge at the deponent's houſe in Edinburgh: that he obſerved him to be afraid to be

ſeen abroad, and kept at home in the day time, and went abroad under cloud of night; for which he gave this reaſon to the deponent, that he had been a ſoldier in colonel Lee's regiment, from which he had deſerted, and was afraid to be diſcovered. And being interrogate, depones, That, when Allan Breck went abroad, as has been ſaid, in May 1750, he owed the deponent a guinea, and, being run ſhort of money, he drew a bill on the pannel for that ſum, whereof he acquainted the pannel ſome time he thinks in July, and, ſome time in Auguſt, he received the money by Maccoll the Appin carrier; and, by the ſame carrier, ſent the pannel the bill upon him. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) HUGH STEWART. JA. FERGUSON.

Duncan Stewart of Glenbuckie, aged twenty ſeven years, unmarried, ſworn, purged and examined *ut ſupra*, depones, That he was acquainted with Allan Breck Stewart; and that, at any time, when he came from France to this country, he had no fixed reſidence to the deponent known, but went about among his friends and acquaintances: that, when he came laſt to Scotland, his dreſs was a long blue coat, a red waiſt-coat, black breeches, and a feathered hat: that, in March laſt, when he was at the deponent's houſe, he was in that dreſs; but, at other times, he has ſeen him in a different dreſs, particularly in April laſt at Glenenty, which was the laſt time he ſaw him; his dreſs was, a black ſhort coat with clear buttons, a tartan waiſt-coat, trowſers, and a bonnet,

net, and, above all, a dun-coloured great coat. Depones, That he remembers, that, upon one occaſion, while Allan Breck was at his houſe, being the firſt time he came, he, for two days, to the deponent's certain knowledge, wore a ſhort blue coat of the deponent's, which the deponent, at his deſire, lent him; and whether he wore it any more than two days, of the ten days he at that time ſtaid at the deponent's houſe, the deponent does not know, not having been at home all the time. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) DUN. STEWART. JA. FERGUSON.

Duncan Ferguſon, ſervant to Duncan Stewart of Glenbuckie, aged twenty nine, unmarried, ſworn, purged and examined *ut ſupra*, depones, That, about the 20th of April laſt, he ſaw Allan Breck Stewart at the houſe of Branachile, the houſe of the former witneſs; at which time he was dreſſed in a ſhort black coat with clear white buttons, a tartan veſt, trowſers, tartan hoſe, and bonnet. Depones, That he ſtaid there two nights, and went from thence, as the deponent was informed, to Glenfinlas, and ſtaid a night there. Depones, That the deponent alſo ſaw him at Glenbuckie's houſe in March laſt, at which time he was dreſſed in a blue coat, red veſt, and feathered hat. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God; and depones he cannot write.

(Signed) P. GRANT.

Duncan Stewart in Glenfinlas, aged thirty-two years, married, ſworn, purged and examined *ut ſupra*,

ſupra, depones, That, one night, between the 20th and 23d of April, the deponent ſaw Allan Breck Stewart at Glenfinlas, and was dreſſed in a black ſhort coat, and white clear buttons, trowſers, and a bonnet, and had on a dun big coat above the ſhort coat. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) DUNCAN STEWART. P. GRANT.

Katharine Macinnes late ſervant to Alexander Stewart of Ballacheliſh, aged twenty two years, ſworn, purged and examined *ut ſupra*, by Mr. Archibald Campbell of Stonefield, ſworn interpreter, depones, That in the evening of the 14th of May laſt, the deponent ſaw Allan Breck Stewart at a goat-houſe in the moor of Ballacheliſh after Glenure was killed; and that Allan Breck then aſked her, what was the occaſion of the ſtir in the town? and that ſhe told him, Glenure was murdered; and further aſked her, who might have committed the murder? and that ſhe told him, ſhe did not know; and that the ſaid Allan further deſired the deponent to tell Donald Stewart in Ballacheliſh to go to the pannel, and deſire him to ſend the ſaid Allan money; and that ſhe delivered this meſſage to Donald Stewart that ſame night. Depones, That ſhe told the ſaid Donald Stewart where ſhe ſaw Allan Breck; but that ſhe did not tell him to go to the ſaid Allan, nor did he deſire her. *Cauſa ſcientiæ patet.* And this is truth, as ſhe ſhall anſwer to God; and depones ſhe cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

John Stewart younger of Ballacheliſh, aged twenty ſix, unmarried, ſworn, purged and examined *ut ſupra*, depones, That, the day after the murder of Glenure, the deponent was at the pannel's houſe, who, after twelve o'clock of the day, told the deponent, that he had had a meſſage that morning from Allan Breck by Donald Stewart, to ſend him money; but does not remember, whether the pannel told him the place where he was directed to ſend it; and the pannel told the deponent, that he was reſolved to ſend him money. Depones, That, the laſt day of December laſt, the deponent was in company with the deceas'd Glenure, an uncle of Ardſhiel's, and the pannel and Mr. Campbell of Ballieveolan, when, after the company had drunk very hard, and were all drunk, ſome high words aroſe between Glenure and Ardſhiel's uncle, and they were like to come to blows, which both of them attempted; but the deponent, once and again ſeparated them: that Ardſhiel's uncle happened to go out of the houſe, as did alſo the pannel, and the deponent called to the people without not to let them in again, becauſe they were drunk: that the pannel had invited Glenure next day to his houſe, which Glenure had accepted of, and therefore the pannel preſſed to come in again to the houſe to renew the invitation, and take his leave of Glenure; but the deponent would not allow him to come in, and undertook to make his excuſe to Glenure: that the deponent, coming into the houſe, found Glenure ſtanding with a drawn hanger in his hand; and the deponent aſked, what he meant by that? and Glenure anſwered, that he ſhould not allow him to be mobbed there; upon which the deponent

nent aſſured him he ſhould not be mobbed there; and then Glenure threw the hanger upon the bed: that the deponent went home with the pannel, and next day Glenure came there before dinner, and dined, and made apologies mutually for what paſſed the night before; and that Mr. Campbell of Ballieveolan dined there alſo. And being interrogate for the purſuers, depones, That the deponent was in Edinburgh in Auguſt laſt, and was preſent at conſultations of the pannel his lawyers and agents, touching his defence. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) JOHN STEWART. P. GRANT.

Alexander Stewart in Auchindarroch, aged about eighteen, unmarried, witneſs cited, ſworn, purged and examined *ut ſupra*, by Mr. Archibald Campbell of Stonefield, ſworn interpreter, depones, That, to the beſt of his knowledge, he ſaw Donald Stewart in Ballacheliſh and the pannel together, upon the marches between Aucharn and Auchindarroch, in the morning of the 15th of May; and that he himſelf was at the time digging ground, with the other tenants of the town. *Cauſa ſcientiæ patet.* And this is truth, as he ſhall anſwer to God.

(Signed) ALEX STEWART.
ARCH. CAMPBELL.
P. GRANT.

Alexander Stewart of Ballacheliſh elder, witneſs cited, ſworn, purged and examined *ut ſupra*, depones, That the deponent was with Allan Breck

Breck Stewart's father a conſiderable time before his death; but, after he had contracted the indiſpoſition whereof he died, he told the deponent, that he intended to leave the care of his children, and of his affairs, to Ardſhiel and the pannel: that the deponent knows they accordingly took upon them the management, tho' he believes the nomination was only verbal, and not in writing. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) ALEX. STEWART. P. GRANT.

John Stewart tenant in Auchnacoan, aged fifty two years, married, witneſs cited, ſworn, purged and examined *ut ſupra*, depones, That Allan Breck's father, as he believes, named the pannel to be tutor to his children, and no other tutor; and the cauſe of the deponent's belief is, becauſe he ſaw the pannel take the management of their affairs upon him. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) JOHN STEWART. P. GRANT.

John Flockhart, writer in Edinburgh, aged thirty and upwards, married, witneſs cited, ſworn, purged and examined *ut ſupra*, depones, That being ſhown a letter by the pannel to Mr. John Macfarlane writer to the ſignet, dated the 19th of May laſt, depones, That that letter came to the deponent's hands at Edinburgh by courſe of poſt the 24th of May laſt, and the deponent being to go for Perth next day, he gave the letter to Alexander Hart, clerk to Mr. Macfarlane, to be delivered to his maſter; and knows not whether

ther any thing was done by Mr. Macfarlane purſuant to that letter. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) Jo. Flockhart.

And, after cloſing the oath, being further interrogate for the pannel, depones, That there was no other letter accompanying the one before mentioned. And this is alſo truth, as he ſhall anſwer to God.

(Signed) Jo. Flockhart. P. Grant.

John Cameron of Strone, aged twenty five, married, witneſs cited, and ſworn *ut ſupra*, depones, That, about a year ago, being in company with ſome of the tenants of Rannoch, in a houſe in Rannoch, a man came unto them, whom they called ſerjeant More Cameron, whom the deponent never ſaw before, nor ſince: that the tenants were complaining of Glenure for his hard uſage of the tenants of Ardſhiel; and the ſaid ſerjeant More ſaid, that, if he met him in the high way, he would ſhoot him. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God.

(Signed) John Cameron. P. Grant.

Ewan Cameron ſervant to John Cameron of Strone, aged twenty years, unmarried, witneſs cited, ſworn, purged and examined *ut ſupra*, by Archibald Campbell writer in Inverary, ſworn interpreter foreſaid, depones, That he had occaſion to be in Rannoch harveſt laſt: that he ſaw there a man that was called ſerjeant More Cameron, whom

whom he never ſaw before, or ſince. Depones, That he ſaw the man called ſerjeant More in a houſe; but does not know the name of the town, or the name of the man to whom the houſe belonged, the deponent having never been in Rannoch but that one time. Depones, That he heard the ſaid ſerjeant More ſay, That, if he, the ſaid ſerjeant More, met with Glenure, he did not care tho' he ſhould be up-ſides with him; but had no reaſon for ſaying ſo, he having heard no more of his diſcourſe. Depones, that the deponent was then ſervant to the former witneſs, and was then in Rannoch attending him. *Cauſa ſcientiæ patet.* And this is the truth, as he ſhall anſwer to God; and declares he cannot write.

(Signed) ARCH. CAMPBELL. P. GRANT.

Then the procurators for the pannel declared their probation to be concluded.

Follows the Writings produced in Evidence for the Profecutors.

The judicial declarations of the pannel, his wife and children.

AT Fort-William, the 2d day of June 1752 years, in preſence of George Douglas ſheriff ſubſtitute of the ſheriffdom of Inverneſs, ſitting in judgment, compeared James Stewart in Aucharn, now priſoner at this place; who being judicially examined anent the matter under written, declares judicially, *that Allan Breck Stewart, came to his houſe in the letter end of March, upon his coming from France; that he ſtaid two nights there, when the declarant went to Edinburgh, leaving the ſaid Allan at his houſe: that the ſaid Allan came to the declarant's houſe in the month of April after, being at Glenbuckie's and Rannoch; and that, upon Monday the* 11th *day of May laſt, the ſaid Allan came to the declarant's houſe from Faſnacloich*; and the declarant being called upon by Mr. Campbell of Airds to go to Keil, and having little converſation with the ſaid Allan till his return, and no other after his return, than what was in the preſence of the family; *nor does the declarant remember, whether he ſupped with the ſaid Allan that night or not; but rather thinks he did; or whether the ſaid Allan was dreſſed in a long blue coat and hat, or in a black ſhort coat with ſilver buttons:* that the declarant

declarant thought himſelf concerned in drink that night, having drunk at the miller of Keil's houſe with the old piper, the young piper, the ſaid miller, and old Duncan Maccombich, and his ſon Archibald: the declarant went away to Appin's houſe early upon Tueſday the 12th day of May laſt, and did not ſee Allan that day or ſince: that when the declarant was at Edinburgh, the ſaid Allan carried a ſhort black coat with ſilver buttons, belonging to the declarant, with him to Glenbuckie's and Rannoch, and wore it upon his return, when the declarant told the ſaid Allan, that he wondered how his ſhort coat fitted him, as Allan was a large man, and the declarant a little man: to which he anſwered, that it ſerved him well enough: that, upon Monday's night the 11th day of May laſt, the declarant's ſon, Charles, told him, he was to go to Glenco, Callart, and Fort-William; and that he did not ſee his ſaid ſon from that night, till he ſaw him in this place, after that, he, the declarant, was made priſoner; nor is the declarant ſure if his ſaid ſon went to Glenco or Callart till Wedneſday the 13th day of May laſt. Declares alſo, That his ſon Allan was at home on Sunday's night the 10th day of May laſt; but is not ſure whether he was at home all that day or not. *That there were no ſtrangers at the declarant's houſe upon the ſaid Sunday's night, or on the following Monday or Monday's night, nor yet on the Tueſday or Tueſday's night following, except the ſaid Allan Breck and Faſnacloich's daughter upon the ſaid Monday's night.* Declares, That John Stewart younger of Ballachelliſh was at his houſe upon Wedneſday's Night, and

and is ſure that Ewan Roy Maccoll, brother to Appin's bouman at Coaliſnacoan, ſupped at his, the declarant's, houſe, either upon the Wedneſday or Thurſday's night the 13th or 14th days of May laſt; and that the ſaid Ewan Roy Maccoll was alſo at the declarant's houſe upon Saturday thereafter, in the forenoon, along with his ſiſter, ſpouſe to Ewan Maccombich padler in Cuil, and then paid the declarant ten pounds Scots, except ſeven ſhillings and two pence, for which the ſaid Ewan Maccombich padler became debitor; which ten pounds Scots was in payment of the graſs-meal of cattle; and that the ſaid Ewan Roy Maccoll did then give to the declarant a liſt of debts due to him in the country, whereof twenty pounds Scots was to be applied towards payment of a debt due by the ſaid Ewan to his ſaid ſiſter, as the declarant had the management of her effects in the country of Appin; and which ſiſter's name is Chriſtian Maccoll, and was laſt winter ſervitrix to Mr. Stewart of Ballachallan: that the declarant delivered ſome cattle to Duncan Stewart ſervitor to Glenbuckie, and Solomon Maccoll ſervitor to the declarant's ſon Allan Stewart, and John Maccoll now priſoner at Fort-William, at the marches betwixt Aucharn and Sallachan; and that the ſaid Ewan Roy Maccoll was to meet them at Glenduror with cattle of his own that were to be ſent ſouth along with the declarant's; and that the ſaid John Maccoll parted with them at a ſhealing called the Immerin; and that the declarant did not ſee the ſaid Ewan Roy Maccoll ſince. And being interrogate, if he had any arms in his houſe? declares, That when he was made priſoner, he had

had a ſmall fowling-piece and a broad ſword, which broad ſword was to be kept for the children of the deceas'd Allan Stewart of Cuil, till they were of age. Declares alſo, That the ſaid Solomon Maccoll, formerly ſervant to Donald Stewart at Tayharnan, came home to his ſervice on the 15th or 16th days of May laſt: that John Stewart in Auchnacoan came to the declarant's houſe upon the evening of the 14th day of May laſt, and ſtaid there that night; and declares, that he did not ſend him any meſſage, either that day, or the preceeding day, nor had he any buſineſs that the declarant knows of. Declares alſo, That, the afternoon of Glenure's murder, ſeveral of the tenants in the neighbourhood, particularly the tenants of Auchindarroch, and Duncan Stewart at Inſhaig, and Robert Stewart the miller, came to the declarant, to know what they ſhould do, or whether they ſhould go near the corpſe; and that he adviſed them to go; but that neither he nor his ſon Allan went there, becauſe he underſtood that Ballieveolan and his ſons were to be there; *and that there were ſome chagrine betwixt him and them, they having taken the declarant's poſſeſſion the year before, wherein he had a ſtock of cattle*, viz. *Glenduror, a part of the eſtate of Ardſhiel: that when young Ballacheliſh was over night at the declarant's houſe as aforeſaid, they had a converſation about the removal of the tenants from the eſtate of Ardſhiel; the reſult of which was, that they ſhould continue their poſſeſſion, and take the hazard of the violent profits, unleſs they were forced out; and that he had converſations with old Ballacheliſh to the ſame purpoſe; and that he gave the ſame opinion to ſuch of the ſaid tenants as applied to him*, but recommended to them to uſe

no

no force in keeping their poſſeſſions: that the declarant had no written, but a verbal commiſſion from the ſaid tenants, to negotiate for them at law; nor did he receive any money from them; but that the tenants of Lettermore and Ardſhiel and the miller promiſed to refound his expence for repreſenting their caſe, particularly Dugald and John Maccombichs in Ardſhiel. *And being interrogate, if he had any converſation with the ſaid Allan Breck concerning Glenure? the ſaid Allan aſked the declarant, if he heard that ſerjeant More was come from France, or if he was in the country of Appin? to which the declarant anſwered, that he did not hear he was in Appin, but heard he was in Glenlive laſt year; whereupon the ſaid Allan told the declarant, that ſerjeant More ſwore he would kill Glenure, becauſe of the treatment he gave the tenants on the eſtate of Mamore, part of Lochiel eſtate.* Declares alſo, *That the ſaid Allan Breck threatened, that he would challenge Ballieveolan and his ſons to fight, whenever he met them, becauſe of his removing the declarant laſt year from Glenduror, and being about to remove the other tenants this year from ſome other parts of the eſtate of Ardſhiel*; and that the declarant told him, then they would not fight him, as they would not conſider him as their equal; and if he had come to the country to fight, he had better ſtaid in France. *And being interrogate, if he had any converſation with William Stewart merchant in Maryburgh? declares he had, about the expediency of the ſaid tenants their keeping their poſſeſſions; and that it was the ſaid William's opinion, that they ſhould keep their poſſeſſions; and that their caſe ſhould be repreſented to the Barons of exchequer; and that it was*

hard

hard they ſhould be turned out, until their caſe was ſtated. And being aſked, if he had any converſation with Callart anent the removings? declares, he does not remember; but that commonly every body he ſaw aſked him, what ſhould become of the tenants of the eſtate of Ardſhiel? to which he anſwered, he did not know till the term-day. This declaration is emitted before the ſaid ſheriff-ſubſtitute, place and date foreſaid, before theſe witneſſes, colonel Howard, colonel Crawfurd, Donald Campbell of Airds, and Colin Campbell of Carquhin, Eſqrs;

(Signed) JAMES STEWART.
GEORGE DOUGLAS, *S.S.*

G. HOWARD, witneſs.
DONALD CAMPBELL, witneſs.
CO. CAMPBELL, witneſs.

Eodem die, The ſaid James Stewart, being re-examined, judicially declares, upon recollection, That it was upon Thurſday the 14th day of May laſt, that his ſaid ſon Charles went to Glenco, and not on Wedneſday, as before mentioned; and that Callart was at the declarant's houſe upon Sunday's night the 10th day of May laſt. Declares, That, before Glenure ſerved the warnings againſt the tenants of the eſtate of Ardſhiel, the laird of Appin propoſed to accommodate ſome of them in land: that how ſoon the declarant heard of Glenure's murder, it came in his mind, that ſerjeant More had done it, *becauſe Allan Breck told him, that the ſaid ſerjeant ſwore bloody revenge againſt Glenure before the ſerjeant came from France, upon account*

account of Glenure's treatment of Lochiel's tenants, and his differing with John Cameron of Faſſafern, brother to Lochiel: that the declarant's reaſon for ſuſpecting Allan Breck afterwards, was, becauſe he left the country abruptly, without taking leave of him, as he expected; and if the ſaid Allan was guilty of the ſaid murder, he believes it behoved to be on account of the diſturbance given to the tenants of the eſtate of Ardſhiel; and knows no other. Declares, That he did ſet out for Edinburgh on Friday the 3d day of April laſt, was at Glenco that night, the 4th at Innerkenvie, the 5th at Lanerick, the 6th at Annat, and called next day at Newton, and was that night at Mr. Wordie of Cambuſbaron's houſe at St. Ninian's, called at Touch on the 8th, and got a letter from Mr. Seaton to Mr. David Moncrief, ſecretary to the Barons of exchequer; called at Mr. Wilſon's houſe of Murray's-hall, and was that night at Mr. Foſter of Dunivan's houſe, and got a letter from him to Mr. Patrick Haldane the ſolicitor; but did not deliver it, or the other letter, as he was told they would be of no conſequence; and went to Edinburgh upon Thurſday the 9th day of April laſt, where he continued for eleven days: that he left Edinburgh upon Sunday the 19th, was that night at Dunivan, called at Mr. Wilſon's and Mr. Wordie's, and was at Stirling at night; which place he left on the 21ſt; called at Mr. Dundas of Manner's houſe, Dunblain and Newton, and was at Annat's at night; upon the 22d came to Ballachallan's and ſtaid there that night; came to Glenbuckie's the 23d, and ſtaid there two nights; on the 25th came to Tayindrom; on the 26th came to Duncan Stewart's houſe,

houſe in Glenco; and upon the 27th came home; that, upon the 25th, he called at Mr Murray of Glenkernock: *that, ſoon after the declarant came home, he gave notice to the tenants of Ardſhiel, that he had procured a ſiſt for them againſt the decreet of removing; and that, if they had a mind to continue their poſſeſſions, they were adviſed to go to Glenure and ſeek their poſſeſſions, and if he did not grant their deſire, they ſhould ſend for a notary, and go with him to proteſt againſt Glenure; and if they pleaſed, he would ſend for a notary; to which they agreed: that accordingly the declarant ſent for Charles Stewart notary, and writ him a letter, ſignifying they had obtained a ſiſt for the tenants of the eſtate of Ardſhiel, and deſired him to come to intimate the ſame to Glenure to the purpoſe above mentioned; and that the ſaid Charles did accordingly come to the declarant's houſe at night, and the tenants came alſo next morning; and that the declarant told them, in preſence of the ſaid Charles, that, if it was not their mind to proceed in that method, he would not deſire them to do it, becauſe he could not aſſure them of ſucceſs; and that now they had the advice as it was given to him; and particularly remembers, that three of the tenants of Ardſhiel met the notary at the declarant's houſe, but is not ſure if old John Colquhoun, the fourth tenant in Ardſhiel was there, but rather believes he was: that he was informed on Monday the* 11th *day of May laſt, by his ſon Charles, Allan Breck and Faſnacloich's daughter, that they heard Glenure was to go to Lochaber that day.* Declares alſo, That he ſaw James Stewart younger of Faſnacloich at Glenco's houſe upon the 5th day of May laſt, who aſking him what he had done at

Edinburgh? the declarant told him, he had procured a ſiſt for the tenants of Ardſhiel's eſtate; and that he did not know what ſervice it might be of, but that ſome people thought they might ſit, and take the hazard of the violent profits till they had an opportunity of laying their caſe before the barons of exchequer: that at this time the declarant told the ſaid James Stewart, that he wiſhed ſome perſons of underſtanding were preſent on the term-day, to ſee if there was law for ejecting them; and aſked the ſaid James, if he was to be in Duror about that time? who ſaid he did not know: that when the ſaid John Stewart of Ballacheliſh was at the declarant's houſe, he aſked him, if he would be preſent with the tenants to ſee if there was law for turning them out? who ſaid he would, if he did not go to Inverary. Declares alſo, That, in general, he recommended to every body not to make any diſturbance, and particularly recommended to his own ſervants not to be preſent, not knowing what might happen if a mob of people gathered; nor did he intend to be preſent himſelf. This declaration is emitted judicially, place and date foreſaid, before theſe witneſſes, colonel Howard, Donald Campbell of Airds, and Colin Campbell of Carwhin, Eſqrs.

(Signed) JAMES STEWART.
GEORGE DOUGLAS, *S. S.*

G. HOWARD, witneſs,
DONALD CAMPBELL, witneſs.
CO. CAMPBELL, witneſs.

At Maryburgh, the 3d day of June, 1752 years, in preſence of the ſaid ſheriff-ſubſtitute, compeared the ſaid James Stewart, who, after having his former declarations fully read, recollects, that he was not a night at Annat, but called there on his way to Edinburgh, and ſo was a day ſooner there than what's mentioned in his former declaration; and being interrogate, if Allan Breck, the declarant's ſon Charles, or Faſnacloich's daughter told him, when ſhe came to his houſe upon Monday the 11th of May laſt, that Glenure had got the ſaid ſiſt removed? declares, they did not; *but that one of them told him, he heard Glenure was to remove the tenants of Ardſhiel*, but which of them ſaid ſo, he does not remember. This declaration emitted, place and date foreſaid, before the ſaid Donald Campbell of Airds, and Colin Campbell of Carwhin, Eſqrs.

(Signed) JAMES STEWART.

GEORGE DOUGLAS. *S. S.*

DONALD CAMPBELL, witneſs.

CO. CAMPBELL, witneſs.

At Maryburgh, the 3d day of June, 1752 years, in preſence of the ſaid George Douglas ſheriff-ſubſtitute of the ſhire of Inverneſs, compeared Allan Stewart, ſon to James Stewart in Aucharn; who, being examined judicially, declares, *That Allan Breck Stewart came to the declarant's father's houſe on Monday's afternoon the 11th day of May laſt, dreſſed in a long blue coat, red waiſtcoat, black breeches, tartan hoſe and a hat*; and after

after being ſome time there, did put off his blue coat and waiſtcoat, and put on a black ſhort coat with ſilver buttons belonging to the declarant's father; and went that afternoon to work with the declarant's father's ſervants in covering potatoes: that the ſaid Allan Breck ſtaid that night, and was dreſſed next morning in his blue coat and red waiſtcoat, as the day before: that the declarant did not ſee him go away from Aucharn upon the 12th, the declarant being in the fields from the time he roſe in the morning till twelve of the clock that forenoon, ſowing barley, except once that he made a ſtart home for more bear. Declares, *That, upon the afternoon that the ſaid Allan Breck came to Aucharn, as aforeſaid, he told the declarant, that he heard in Glencrearen, that the tenants who had taken the lands of Ardſhiel were to be at Glenduror on Thurſday's night, in order to enter to the poſſeſſion on Friday the 15th day of May laſt; and told him likewiſe, that he heard Glenure had come home, and had orders to remove the former poſſeſſors: that Archibald Cameron, couſin to Drumnaſailly, came along with Faſnacloich's daughter, and the declarant's brother Charles, to his Father's houſe, upon the ſaid 11th day of May laſt, and ſtaid all night; the ſaid Allan Breck having come by himſelf about two of the clock in the afternoon that day: that the DECLARANT's FATHER CONVERSED WITH THE SAID ALLAN BRECK ASIDE, UPON HIS FIRT ARRIVAL AT AUCHARN UPON THE ſaid 11th DAY of MAY; but that the converſation did not laſt above five minutes or thereabouts; nor did the declarant hear what paſſed: that the declarant's father did not appear to be the leaſt in drink upon his coming home upon the evening the Monday aforeſaid,*

aforeſaid, but told that Mr. Campbell of Airds had given the declarant's father and the tenants of Keil, three or four bottles of whiſky; and that the declarant's father ſupp'd at home along with the ſaid Allan Breck that night: that, upon Tueſday afternoon the 12th of May laſt, the declarant and the ſaid Archibald Cameron, and Donald Macdonald brother to Glenco, went to the iſle of Ballienagowan; and the declarant and the ſaid Donald Macdonald returned in the evening to Aucharn; but the ſaid Archibald Cameron went to his aunt's at Cuil: that, in the morning of the 13th of May laſt, the declarant went to Sallachan, where he ſaw John More Macilichatten, and delivered them a mare and a filly, and then returned home; and in the afternoon of that day went to Kintalline, in order to go to Tayphinſt; but being informed by Donald Mackendrick the old piper at Keil, whom he met there, that young Ballacheliſh was to be at Aucharn that night, the declarant returned with the ſaid piper, and went along with him to the moſs: that accordingly Ballacheliſh younger came to, and ſtaid at the declarant's father's houſe that night, and went next day to Appin's houſe: that the ſaid Ewan Roy Maccoll, brother to Appin's bouman at Koaliſnacoan, wrought at the declarant's father's peat-moſs upon the ſaid 13th of May laſt, and ſupped at the declarant's father's houſe that night, and believes he took his bed with Duncan Maccoll his uncle's ſon at Auchindarroch that night: that, upon the 14th of May in the morning, the declarant went up to Freichie, and returned by the houſes of Glenduror, where he ſaw two women and ſpoke with one of them,

them, to hinder the cattle to treſpaſs on his father's grounds; and whilſt the declarant was ſpeaking to that woman, he ſaw a man paſſing at a little diſtance, who was inquiring for Glenure, as the ſaid woman told the declarant, which man the declarant thereafter obſerved travelling on the road towards Auchindarroch: that the declarant came ſtraight home from Glenduror, and continued at home till he went to Inſhaig, along with his brother Charles and Faſnacloich's daughter, and continued there till the news of Glenure's murder reached his father's houſe, where he heard the firſt accounts of it, Glenure's ſervant being juſt gone, as the declarant was informed: that the declarant was at home all day the 15th of ſaid May; only that he made a ſtart to Cuil, where he was in company with Duncan Stewart ſenior, and Duncan Stewart younger, his ſon, and Duncan Stewart at Inſhaig. And being interrogate, what converſation paſſed betwixt him and his father, on his return home from Inſhaig? his father told him, *that Glenure's ſervant was there; and, upon the declarant's father's aſking his news, he told him, the worſt that ever he had; that his maſter was killed at Lettermore; and that his father aſked, if it was by a ſhot? and that the ſervant anſwered, that it was; and that the ſaid ſervant alſo deſired his father to go and take care of the corpſe; which he propoſed to do, but that his wife would not let him; but that he ſent for the tenants of Auchindarroch, and deſired them to go to take care of the corpſe; and that the reaſon that he the declarant did not go to take care of the corpſe, was, becauſe it did not at firſt occur to him; and that*

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it was too late, and the reſt of the people gone; yet it was clear day-light, but thinks the ſun was ſet; and that the declarant's mother alſo hindered his going, and aſſigned for a reaſon, that if the friends of the deceas'd were there, and had arms, they might, in their paſſion, do hurt to him and his father; and that he was but a little time at home after his return from Inſhaig, when he ſaw Glenure's ſervant returning from Glenduror, and paſſing towards Kintalline: that the declarant thinks his brother Charles went in the afternoon of the 14th of May laſt with Faſnacloich's daughter, and the ſaid Archibald Cameron, and the declarant's ſiſter, to Lagnaha, where they dined in Alexander Stewart ſenior his houſe, and afterwards came back to Aucharn, and then went to Inſhaig as aforeſaid. Declares, That he heard the ſaid Ewan Roy Maccoll ſay, upon the 13th, two ſeveral times, that it was hard in Glenure to turn out the honeſt tenants of the Ardſhiel eſtate, as they paid their rents well, and offered an augmentation of rent, and were willing to give obedience to the government; and that one of the times was after breakfaſt, when the people were together at the end of the declarant's father's houſe, going to the moſs; but that his father was not preſent: that ſome of the tenants of the neighbourhood were there, as well as his father's ſervants; and that they generally talked in the ſame ſtrain with the ſaid Ewan Maccoll; and that the other time was after their returning from their work that evening at the declarant's father's houſe: that the declarant does not know what became of the ſaid Ewan Roy Maccoll all Thurſday ſaid 14th of May laſt;

laſt; but is poſitive that he came into the barn where the declarant was lying, that ſame night, about twelve of the clock, aſking for a bed; which was refuſed him, but ordered to go and lie with the ſervants in another barn in Aucharn, meaning Dougal and John Maccolls, now priſoners at Fort-William: that the declarant ſaw the ſaid Ewan Roy Maccoll at Aucharn upon the 15th of May in the morning, and ſaw him again at Cuil about twelve of the clock that day; and that they came together from thence to Aucharn, where they parted; and that the declarant does not remember if they had any converſation all that time about Glenure's murder. This emitted judicially, place and date foreſaid, before theſe witneſſes, Donald Campbell of Airds, and Colin Campbell of Carwhin.

(Signed) ALLAN STEWART.

GEORGE DOUGLAS, *S. S.*

DONALD CAMPBELL, witneſs.

CO. CAMPBELL, witneſs.

Eodem die, The ſaid Allan Stewart being re-examined judicially, and being interrogate whom he ſuſpected guilty of Glenure's murder? declares, *That he thought if Allan Breck did not ſoon caſt up in the country, he was the moſt likely man to have done it: and further declares, that, in a converſation between him and his father, and others, they were of opinion, that the people of Ballacheliſh and Lettermore muſt have known who committed the murder at the time it happened: that, upon the Friday after the murder happened, he heard his father ſay, he did not doubt but he would be taken up upon ſuſpi-*

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cion of the ſaid murder: that when the declarant's father was at Edinburgh, he expected a letter from him about what he was doing about the removings; which letter came to Aucharn in the declarant's abſence, and was opened by James Stewart younger of Faſnacloich, and contained an account of what the declarant's father had done about the removings; and that he was about buying a bargain of meal. Declares alſo, *That he heard his father expreſs his deſire to young Ballacheliſh to be preſent when the new tenants came to take poſſeſſion of the eſtate of Ardſhiel; and that Donald Macintyre in Aucharn told him, that young Ballacheliſh had come back from Appin to Keil, in order to attend; but, upon hearing of Glenure's murder, returned to Appin: that the declarant's father told him he would not be preſent at the entering of the ſaid new tenants; nor was the declarant reſolved to be preſent himſelf; nor did his father deſire him to go, or ſuſpect him ſuch a fool as to go: that he knows that the ſaid Allan Breck Stewart lay with the declarant's brother Charles in a barn in Aucharn, upon Monday's night the 11th day of May laſt: that the declarant has a black ſhort coat, with nine round ſilver buttons in the breaſt, two upon each haunch, whereof one is ſmall, and it has no buttons on the ſleeves or pockets; and that his father has alſo a black ſhort coat, with ſilver buttons on the breaſt, and pockets, and has none upon the haunches or ſleeves, to the declarant's remembrance:* that the ſaid Allan Breck had no big coat on upon the 11th day of May laſt, when he came to Aucharn, nor had he any big coat of his own that the declarant knows of; for the ſaid *Allan borrowed the declarant's big coat*, when he came to Rannoch: that, in a converſation the declarant had with old Bal-

lacheliſh on the Sunday before Glenure's murder, Ballacheliſh then told the declarant, that the man that had taken the ferry of North Ballacheliſh, came there with his boat, and was refuſed to enter to the poſſeſſion by the tenants, who thought they had as good a right to the ferry as to the land: that thereupon the ferryman drew his boat, and went to Glenure, the tenants being reſolved to keep their poſſeſſions for the year; and that Ballacheliſh ſaid, that the tenants of the Ardſhiel eſtate had as good a title to ſit, as the tenants of Ballacheliſh, if the ſuſpenſion was not diſcuſſed; *and that it was a cant word through the country, That the tenants might ſit, ſince the worſt of it would be paying the violent profits.* Declares alſo, That he has a gun and broad ſword: that he left the gun in his father's brewhouſe, and the ſword he gave to John Maccoll, his father's ſervant, that's priſoner at Fort-William: that John Roy Stewart, nephew to Faſnacloich, lay in the barn with the declarant upon Tueſday's night the 14th day of May laſt; and that John Stewart in Auchnacoan lay in the ſame barn with the declarant's brother Charles, being the night that the ſaid Ewan Roy Maccoll came to look for a bed there. This judicial declaration, emitted in preſence of the ſaid ſheriff-ſubſtitute, place and date foreſaid, before theſe witneſſes, the right honourable the Lord Bury, colonels Howard and Crawfurd, Donald Campbell of Airds, and Colin Campbell of Carwhin.

(Signed) ALLAN STEWART.
GEORGE DOUGLAS, *S.S.*

DONALD CAMPBELL, witneſs.
CO. CAMPBELL, witneſs.

At

At Maryburgh, the 4th day of June 1752 years, in preſence of the ſaid George Douglas ſheriff ſubſtitute aforeſaid, compeared Charles Stewart, ſon to James Stewart in Aucharn, being re-examined judicially, declares, That he was at home all day of the 14th day of May laſt, and that he dined with his father, mother, brother, ſiſter and Faſnacloich's daughter, and after dinner went to Auchindarroch, and there converſed with Duncan Maccombie, Duncan and John Maccolls, and others that were covering potatoes, and deſired Solomon Maccoll to go with Faſnaoloich's daughter to Ardnamurchan, but he would not go: that Faſnacloich's daughter and the declarant's ſiſter went along with him to Auchindarroch, and returned before him to Aucharn, the declarant having ſtaid a quarter of an hour after them, to perſuade the ſaid Solomon to go to Ardnamurchan, and then followed them directly to Aucharn; and did not go nearer Lettermore that day than the place where the people of Auchindarroch were covering potatoes; and, in an hour thereafter, went with Faſnacloich's daughter and the declarant's brother Allan, and ſiſter, to Inſhaig, where he received the news of Glenure's murder, from *John Maccoll now priſoner at Fort-William*; *being ſent there, by the declarant's father, to deſire him and his brother Allan to come home*; but that his ſaid brother was gone a little before the ſaid John Maccoll came. Declares alſo, That he ſaw Ewan Roy Maccoll, brother to Appin's bouman at Koaliſnacoan, at the declarant's father's houſe, upon the evening of the 14th day of May laſt before they lighted candles, and told he had come from

Glenco

Glenco that day; that he, afterwards, that night, came into the barn where the declarant was lying with his uncle John Stewart, looking for a bed, and was directed to lie with the ſervants in the other barn in Aucharn. Declares, that upon his return from Inſhaig with the ſaid John Maccoll priſoner, That the declarant aſk'd him where Glenure was murdered, what way it was done, and if any perſon was ſeen by the place? and that the ſaid John anſwered, that it was done in the wood of Lettermore; whether it was South or North of the houſes he could not tell; that it was by a ſhot, and that there was a man or two ſeen near the place, and this is all the declarant remembers of the converſation upon that head; and that upon his coming home, he heard his father deſire the people of Auchindarroch to go and take care of the corpſe; and that his father propoſed to go himſelf, but that his wife would not let him; and, *at the ſame time, heard his father ſay that he would be ſuſpected of the murder, as he was taking ſo much part with the tenants againſt Glenure the factor:* that he heard Ewan Roy Maccoll ſay, upon the 13th day of May laſt, that he wondered that Glenure was removing the tenants that paid their rent well, and were willing to qualify to the government: that he obſerved his father and the ſaid Ewan Roy Maccoll have ſeveral converſations aſide about that time. This declaration emitted judicially, place and date foreſaid, before theſe witneſſes, Donald Campbell of Airds, and Colin Campbell of Carwhin, Eſqrs.

(Signed) CHARLES STEWART.

GEORGE DOUGLAS, *S.S*

DONALD CAMPBELL, witneſs.

CO. CAMPBELL, witneſs.

Charle

Charles Stewart, ſon to the ſaid James Stewart in Aucharn, being ſolemnly ſworn and examined, depones, That, upon Tueſday the 5th day of May current, the deponent and the ſaid Allan Breck Stewart went from the deponent's father's houſe, where the ſaid Allan had been, on and from the 1ſt current, (except that he was Saturday's night at Cuil) and ſtaid at Appin's houſe on Tueſday's night, were Wedneſday's night at Auchnacoan's, Thurſday's night at Auchaouran's, *Friday, Saturday and Sunday's night at Faſnacloich's, and came on Monday the* 11*th current to his father's houſe: that the dreſs the ſaid Allan wore all this while, was a long-bodied blue coat, red waiſtcoat, black breeches, a hat with a black feather and tartan hoſe, with a big coat dun coloured*; *in which very dreſs, and with which big coat, he came along with the deponent to his father's houſe upon the* 11*th current, continued there that night, and the deponent and he lay together: that he roſe before the deponent on Tueſday the* 12*th current, but that the deponent was up before he left his father's*; *and that as he was going away, which was about* 8 *or* 9 *of the clock in the morning, was told by him he was going for Glenco: THAT THEN HE HAD ON THE WHOLE OF THE SAME DRESS AS ABOVE DESCRIBED:* that the deponent accompanied him to Kintalline, and did not part with him any where on the road: that they paſſed through Auchindarroch and Lagnaha, and ſpoke with ſome people as they went along, particularly Alexander Stewart in Lagnaha and Alexander Stewart his ſon: *that the blue coat Allan wore had yellow metal buttons:* that the deponent and him parted at Kintalline

Kintalline after the deponent aſked John Breck Maccombie for ale there; and this is truth as he ſhall anſwer to God.

(Signed) CHARLES STEWART.
ARCH. CAMPBELL, *S. D.*

Margaret Stewart, ſpouſe to James Stewart in Aucharn, being ſolemnly ſworn and examined, depones, *That Allan Breck Stewart came to her houſe upon Monday immediately before Glenure's murder, dreſſed as mentioned in the laſt depoſition, and with a big coat of the ſame colour; that he ſtaid all night, and went away next day about eight or nine of the clock in the forenoon, dreſſed in the ſame habit; and, at his taking leave of the deponent, aſked her, if ſhe had any commands for Rannoch? that, to the beſt of her knowledge, he came by himſelf, and went away by himſelf:* and this is the truth, as ſhe ſhall anſwer to God; and declares ſhe cannot write.

(Signed) ARCH. CAMPBELL, *S. D.*

Elizabeth Stewart, daughter of the ſaid James Stewart in Aucharn, being ſolemnly ſworn and examined, depones, *conform to her mother's depoſition in every thing, only that ſhe is poſitive that Allan Breck Stewart came all alone to Aucharn, upon Monday immediately before Glenure's murder, ſhe having ſeen him come there:* and this is truth as ſhe ſhall anſwer to God; and declares ſhe cannot write; and adds, that Solomon Maccoll, her father's

ther's ſervant, went off for the ſouth country upon Saturday the 16th current.

(Signed) ARCH. CAMPBELL, *S. D.*

Charles Stewart ſon of the ſaid James Stewart in Aucharn, being re-examined, judicially acknowledges, That Dugald Maccoll former declarant told the ſaid Charles Stewart, that there were arms in his father's houſe, which he had hid; and this judicial acknowledgement is ſigned this 23d day of May, 1752 years, before theſe witneſſes, Donald Campbell of Airds, and James Campbell writer in Inverary, writer hereof.

(Signed) CHARLES STEWART.

DONALD CAMPBELL, witneſs
JA. CAMPBELL, witneſs.

Thereafter the ſaid Charles Stewart judicially owns, *That, upon the 12th day of May current, the black ſhort coat, with ſilver buttons then wore by Allan Breck Stewart, was given to him by the declarant's father; and that he had got the plaiden trowſers, then wore by him, from the declarant's father, or brother Allan*; and this is alſo ſigned, place and date aforeſaid.

(Signed) CHARLES STEWART.
ARCH. CAMPBELL, *S. D.*

DONALD CAMPBELL, witneſs.
JA. CAMPBELL, witneſs.

The

The ſaid Margaret Stewart, ſpouſe to James Stewart in Aucharn, being re-examined, judicially declares, That her huſband, James Stewart, was at home, and lay in the ſame bed with her on Monday's night the 11th of May current: and this is alſo truth, as ſhe ſhall anſwer to God; and declares ſhe cannot write.

(Signed) ARCH. CAMPBELL, *S. D.*

The ſaid Elizabeth Stewart her daughter, re-examined, judicially owns, That her father was at home on Monday's night the 11th day of May current: and this is alſo truth, as ſhe ſhall anſwer to God; and declares ſhe cannot write.

(Signed) ARCH. CAMPBELL, *S. D.*

At Taynaheinſaig the 25th day of May, 1752 years, the ſaid Charles Stewart being re-examined by the ſaid ſheriff-depute, judicially declares, That the ſaid Allan Breck Stewart had on a black ſhort coat with round ſilver buttons, upon the thirtieth day of April laſt, when he came to the declarant's father's houſe in Aucharn from Rannoch: that the declarant left the ſaid Allan Breck at his father's houſe, *he himſelf having, upon the firſt day of May current, gone to Glenure along with the tenants of Ardſhiel and Charles Stewart notary, to be a witneſs to the intimation of the ſiſt they had obtained againſt the decreet of removing; and that, upon his return that evening, he found the ſaid Allan Breck at his father's, and was then dreſſed in a black ſhort*

ſhort coat and round ſilver buttons, and then obſerved, that the ſaid coat was lined with red in the breaſt and ſkirts; and that the ſaid Allan told him, that he had got the ſaid ſhort coat from the declarant's father; but does not remember when it was he told him ſo. Declares alſo, That the ſaid Allan Breck Stewart had on blue and white trowſers when he came from Rannoch to his father's houſe, on the 30th day of April; and had them likewiſe on, on the 2d day of May current, when he went to Cuil in Appin; and that he wore the ſame dreſs upon the 3d and 4th days of May current: that the ſaid Allan did put on his ſide blue coat on the 5th day of May current, when he went to Appin's houſe: and likeways declares, *that he ſaw Allan Breck's blue coat, upon the 13th current, lying upon a trunk in the room upon the right hand of the entry of his father's houſe: that the ſaid Allan had on the ſaid black ſhort coat, when at breakfaſt at the declarant's father's houſe, upon the 12th day of May current, but had on no jocky-coat then.* This declaration is judicially ſigned, place and date foreſaid, before theſe witneſſes, Donald Campbell of Airds, and Colin Campbell of Carwhin.

(Signed) CHARLES STEWART.

ARCH. CAMPBELL, *S. D.*

DONALD CAMPBELL, witneſs.

CO. CAMPBELL, witneſs.

The ſaid Margaret Stewart, ſpouſe to the ſaid James Stewart in Aucharn, being re-examined, declares, *That the black ſhort coat now ſhown to her, is the ſame which was brought from her houſe upon*

Saturday's evening the 23d current, and belongs to Allan Stewart her ſon: that her huſband has had no black coat for three quarters of a year paſt; and that the laſt black ſhort coat he had, was given by him to John More Maccoll; and that the round ſilver buttons, which are upon the coat now produced, were formerly upon the coat given to the ſaid John More Maccoll. This judicial declaration is emitted this 25th day of May, 1752 years, before theſe witneſſes, Colin Campbell of Carwhin, and Donald Campbell of Airds; and the declarant declares ſhe cannot write.

(Signed) ARCH. CAMPBELL, *S. D.*
CO. CAMPBELL, witneſs.
DONALD CAMPBELL, witneſs.

The ſaid Margaret Stewart alſo owns, that there was a gun in her huſband's houſe this ſpring, which ſhe ſaw her ſon Allan go out with once or twice to kill black cocks. This judicial declaration is alſo ſigned, place and date aforeſaid, and before the witneſſes above named and deſigned.

(Signed) ARCH. CAMPBELL, *S. D.*
DONALD CAMPBELL, witneſs.

Letter addreſs'd to Duncan Stewart of Glenbuckie,

NOW I am ſorry to acquaint you, affairs is going quite wrong upon this eſtate of your couſin's; Glenure wants Ardſhiel and Lettermore in his own hands, and more rents for our tenement, and the carriages to himſelf. How far theſe things will take place, God knows! The' man makes the whole noiſe,

noiſe, is Ballieveolan, upon account of our keeping John More; for he does not deny but what he offers more rents for Glenduror, and gives this as his reaſons. However it ſhall be A DEAR GLEN TO THEM OR THEY SHALL HAVE IT. All you heard about the country is true: I go, in a few days, to Kingailoch for the ſtallion, which ſtands us eight guineas; he wants to harrow him this ſpring; and to get him broke for the ſaddle again harveſt. Faſnacloich has made the purchaſe for himſelf. You'll not neglect to ſend all the money you can in a very ſhort time, as money never was ſcarcer in this country. Kingailoch has got money; ſo that we are ſure of his cows. Malcolm Livingſton has ſent for more money; for he employed what he got. I ſhall refer the whole hiſtory of the country till I have the pleaſure of ſeeing you. I beg you'll not neglect ſending a ſervant ſoon, with as much as poſſible; let nothing ſtop him. Neglect not about your brother. No more, but my compliments to Miſs Jeany, Sandy, and little Donald, is all from, dear couſin, I am your affectionate couſin,

(Signed) ALLAN STEWART.

Dated Aucharn, April the 1ſt, 1751.

Maryburgh, 4th June, 1752 years. This letter was found among James Stewart in Aucharn's papers, and ſhown this day to Allan Stewart his ſon, who refuſes it to be his hand-writing, in preſence of Colin Campbell of Carwhin, and Donald Campbell

Campbell of Airds Eſqrs; two of his majeſty's juſtices of peace for Argyleſhire.

(Signed) ARCH. CAMPBELL, *S. D.*
DONALD CAMPBELL, witneſs.
CO. CAMPBELL, witneſs.

The above letter was addreſſed on the back, *To Duncan Stewart of Glenbucky, at Brenchyle.*

Letter, James Stewart to Charles Stewart notary.

Dear Charles,

NOT knowing of your return from Mudart, ſent for your father Tueſday's afternoon; but the raſcal I ſent, went not by Glencrearan that night, by which he miſſed the old man, who went a-fiſhing, as you'll ſee by the incloſs'd, early that morning; which I reckon a very great misfortune. *The next beſt I can think off, is, that you be here without fail this night, if you ſhould hire a horſe, as every thing muſt go wrong without a perſon can act, and that I can truſt. This is ſuch a tie upon all the members of our family, that I'll preſs you no further, but do depend on ſeeing you once this night; and am your own,* &c. *dear couſin,*

(Signed) JAMES STEWART.

Aucharn, May 14th, eight o'clock morning, 1752.

P. S. *As I have not time to write to William, let him ſend down immediately* 8 *l. ſterling to pay four milk cows I bought for his wife at Ardſhiel.*

Addreſſed

Addreſſed on the back thus: *To Mr. Charles Stewart at Auchiutour. per expreſs.*

Letter, William Stewart to James Stewart.

Maryburgh 14th May 1752.

Dr Sir,

I Send the bearer for the beſt mare, and my young beaſts in Salachan; unleſs you keep by it (which I think you ought) and ſend ſome other body up with him, and let them carry the milk cows you bought for me. Let the filly be grazed thereabouts, waiting market.

I find Glenure has a mind to eject the tenants; but they ought to be deaf to it, and, at all riſques, keep poſſeſſion, as they are in good hands, as it muſt end in exchequer; ſo that I beg they keep poſſeſſion; as there will be no troops, they ought to repel force by force, and take their hazard of the conſequence; as it can be no more than violent profits, which is often modified in inferior courts, beſides the exchequer, who will inſiſt for no ſuch; their chief deſign being to have a ſet of peaceable tenantry, and a well paid rent; ſo that the people ought to be aſſured they ſhall be ſupported as far as law will, which no doubt muſt determine in their favours; and am, dear Sir, your own, &c.

(Signed) WILLIAM STEWART.

Addreſſed on the back thus: *To Mr. James Stewart in Aucharn.*

Wrote

Wrote on the back thus:

Maryburgh the 5th day of June 1752. This is the letter relative to the declaration emitted this day before me, by William Stewart merchant in Maryburgh.

(Signed) GEORGE DOUGLAS, *S. S.*

Letter, James Stewart to Mr. John Macfarlane.

Sir,

JUſt now had your favour, and am ſorry theſe poor tenants ſhould have made uſe of me for repreſenting their grievance, as, in all appearance, it has brought a great deal of trouble upon me; being carried here, and my ſon upon Sunday laſt, ſuſpected to be knowing to the barbarous murder of Glenure, who was ſhot dead upon Thurſday the 14th current, in a wood within two miles of my houſe. It is not pretended that I or my ſon were actors in this horrid action, as we both can be well atteſted; but alledges, it was a premeditated thing, to which I muſt have been knowing: but ſo far otherwiſe, that no man (I thank God) abhors the fact more, and would, if at liberty, do all in my power to bring it to light. *There is one Allan Stewart, a diſtant friend of the late Ardſhiel's, who is in the French ſervice, and came over in March laſt, as he ſaid to ſome, in order to ſettle at home; to others, that he was to go ſoon back; and was, as I hear, the day the murder was committed, ſeen not far from the place where it happened, and is not now to be ſeen; by which it is believed he was the actor; he is a deſperate fooliſh fellow;* and, if he is guilty, came

to

to the country for that very purpoſe. He is a tall pock-pitted lad, very black hair, and wore a blue coat and metal buttons, an old red veſt and breeches of the ſame colour. I would own myſelf under many obligations to any friend would diſcover him; am perſuaded he is gone South, in order to embrace the firſt opportunity of going abroad. When at Edinburgh, he ſtaid in Mr. Hugh Stewart's at the back of the Fountain-well; ſo begs, as you have any regard for my intereſt, recommend all that wiſh the country well to be in ſearch of him. What makes my confinement very uneaſy to me is, that this is the time of the year that my buſineſs would require my preſence moſt; having bought cattle (wherein I yearly deal) in different countries, and taken graſings South for the cattle, which I muſt pay if I ſhould never ſend a beaſt upon it; which I am afraid will be the caſe, if either my ſon or ſelf be not admitted to bail, to put our affairs in order: ſo hopes you'll ſpare no pains in this, as Airds and Appin will bail me in any ſum whatever.

Your return I'll expect in courſe of poſt; and am, with compliments to your lady and ſelf, Dr Sir, your moſt humble ſervant,

(Signed) JAMES STEWART.

Fort-William May 19.
1752.

Addreſſed thus: *To Mr. John Macfarlane writer to the ſignet; in his abſence, to Mr. John Flockhart his principal clerk, at his houſe in the Mint, Edinburgh.*

Inverary

Inverary 22d September 1752.

This is the letter referred to in colonel Crawfurd's oath of this date.

Follows the writings produced for the pannel,

BEING

Five letters wrote to him by Colin Campbell of Glenure.

Glenure, 8th November 1748.

Sir,

I Think I can now, with ſome certainty, tell you, that I am appointed factor over the lands you poſſeſs, and other lands that belonged to your brother Ardſhiel; and as the term is now at hand, will beg the favour, you deſire the tenants and poſſeſſors to be preparing the rents. I am, Sir, your moſt obedient humble ſervant,

(Signed) COLIN CAMPBELL.

Addreſſed thus: *To James Stewart iu Auchindarroch in Duror.*

Glenure, 14th October 1749.

Sir,

As I intend Monday next to be in Duror, to hold a Baron-balie-court on the eſtate of Ardſhiel, and call for bygone rents, have ſent you this, to beg the favour you would let the tenants know of it, that they may be prepared to make payments, and

and not be out of the way; and I ſhall be glad to have the pleaſure of ſeeing you at Taynaheinſaig Monday afternoon. I am, Sir, your moſt obedient humble ſervant.

(Signed) COLIN CAMPBELL.

Addreſſed on the back, *To Mr. James Stewart brother to Ardſhiel.*

Glenure, December 11. 1749.

Sir,

THis moment I had your's by your ſervant, with the twenty pounds eighteen ſhillings and five pence Sterling, and the warrant I formerly gave you. Receive incloſed your note: your payments are very good, for which I am obliged to you. I intend, God will, to be at Edinburgh on, or a day or two before the 25th current; that is, I intend to ſet out from this place this day, or to-morrow eight days, and will go by Glaſgow, and make no ſtop by the way. Remember Lady Ardſhiel's diſcharges, and all your other tackling. I heartily wiſh you a good journey.

(Signed) COLIN CAMPBELL.

My wife, who, I find, is your ſincere well-wiſher, returns you her hearty thanks, and is ſorry you have ſuch bad weather to travel, when you are ſo weak.

Addreſſed on the back thus: *To James Stewart in Auchindarroch in Duror.*

Glenure, 6th April 1750.

Sir,

I Have your's, and think it's quite right to have burliemen: they are frequently very neceſſary, and can't well be wanted. You will therefore appoint two diſcreet honeſt men for that purpoſe of the tenants; and, to prevent any complaints or objections, be ſure you ſwear them to fidelity in their office. My wife returns you her thanks for your good wiſhes. I am, Sir, your moſt obedient,

(Signed) COLIN CAMPBELL.

Addreſſed on the back thus: *To Mr. James Stewart in Auchindarroch.*

Glenure, 14th March 1751.

Sir,

AFter you left this, ſomething has occurred that makes it neceſſary that you do not ſet any part of Ardſhiel, Auchindarroch, or Aucharn, till I ſee you after my return from Inverary; which is the reaſon I run you this expreſs. I am, Sir, your affectionate humble ſervant,

(Signed) COLIN CAMPBELL.

Addreſſed thus: *To James Stewart of Aucharn, Duror.*

LIST

LIST of Witneſſes ſummoned on the letters of exculpation at the inſtance of James Stewart in Aucharn, againſt his Majeſty's Advocate, *&c.*

Angus Mackenrick innkeeper in Lubnamarſt.
Donald Macintyre in Dalneſs.
John Rankine in Achatrichadan.
Neil Rankine in Lickentium.
Alexander Stewart elder of Ballacheliſh.
Sarah Cameron widow in Lettermore.
John Maccorquodale, late in Lettermore, now in Ballacheliſh.
John Maccombich in Ardſhiel.
Duncan Maccoll there.
Duncan Maccombich in Lagnaha.
Duncan Maccombich in Auchindarroch.
Dougal Maccombich, late in Ardſhiel, now in Auchindarroch.
Duncan Maccoll there.
John Maccoll taylor there.
John Maccoll, late in Auchindarroch, now in Lagnaha.
Duncan Maccoll, late in Auchindarroch, now in Cuil.
John Maccombich, late in Ardſhiel, now in Keil.
John Maccoll herd in Aucharn.
Solomon Maccoll there.
Donald Macintyre there.
John Maccoll maltman in Aucharn.
Dougal Maccoll ſervant to the ſaid James Stewart.
John Maccol alſo ſervant to the ſaid James Stewart.
Robert Stewart miller in Cuil.
Hugh Macintyre pedlar there.
Duncan Stewart innkeeper in Taynahyſaig.
Duncan Stewart younger in Cuil.
Ewan Maccombich packman there.
Donal Mackendrick in Keil.
Donald Carmichael there.
Archibald Maccombich there.
Donald Campbell of Airds.
James Stewart of Faſnacloich younger.
Alexander Stewart of Invernahyle.
Iſobel Maccalman ſpouſe to John Cameron weaver in Ardſhiel.
Donald Cameron in Coriechurachan.

Ewan

Ewan Glaſs-Mackenzie reſidenter in Maryburgh.
William Maſon quarter-maſter of general Pultney's regiment of foot for preſent lying at Fort-William.
George Douglas ſheriff-ſubſtitute of Inverneſs-ſhire.
Sir Duncan Campbell of Lochnell, baronet.
Donald Glaſs Maccoll in Cuil.
Malcolm Bane Maccoll change-keeper at Portmacroſh.
John Maccoll late ſervant to the ſaid Bane Maccoll, now in Shuna.
Angus Macdonald waulk-miller in Achoſragan.
John Stewart tenant in Achnacoan.
Ewan Roy Maccoll feuer in Glaſtrim.
John Flockhart writer in Edinburgh.
Hew Stewart reſidenter there.
John Mackenzie late ſervant to the deceas'd Colin Campbell of Glenure, now ſervant to Glendinning of Parton.
John Stewart younger of Ballacheliſh.
Dougal Stewart of Appin.
Duncan Stewart of Glenbuckie.
Duncan Ferguſon ſervant to the ſaid Duncan Stewart of Glenbuckie.
Robert Graham in Sianchyle.
John Wordie of Cambuſbarron.
Agnes Muſchet ſpouſe to the ſaid John Wordie.
Archibald Stewart of Gleſſingale.
John Stewart younger of Annat.
Janet Stewart ſiſter to Duncan Stewart of Glenbuckie.
Mary Stewart likewiſe ſiſter to the ſaid Duncan Stewart.
James Stewart ſerjeant, or late ſerjeant in general Halket's regiment of foot, now reſidenter in Ederalickeich.
Duncan Stewart younger, tenant in Achnahardin, Glenfinlaſs.
Walter Macfarlane tenant there.
Evan Murray vintner at the weſt end of Lochearn.
John Macdonald of Glenco.
Iſobel Stewart relict of the deceas'd Alexander Macdonald of Glenco.
John More Macinnes at Koaliſnacoan.
John Cameron of Faſhifern.
Archibald Cameron, ſon to Allan Cameron ſometime Innkeeper in Maryburgh at Drumnaſaille.
Alexander Cameron of Dungallon.
Donald Cameron tackſman of Carnich in Sunart.
Alexander Cameron in Innerouſkiviulline.
John Maccombich late miller in Kintalline, now at Maryburgh.

Euphema

Euphema or Errick Maccombich, ſpouſe to the ſaid John Maccombich at Maryburgh.
William Stewart merchant at Maryburgh.
Charles Stewart writer at Banvie.
John Cameron tackſman of Stroan.
Evan Maclean barber in Maryburgh.
Allan Cameron tackſman of Lundavra.
Evan Cameron in Stroanahuiſhin.
John Stewart poſſeſſor of Kilmorrie in Ardnamurchan.
Colin Maclaren merchant in Stirling.
Donald Stewart in Ballacheliſh.
Katharine Macinnes, late ſervant to Alexander Stewart of Ballacheliſh, now ſpouſe to Angus Bane Maccombich taylor in Laroch.
John Campbell of Clochombie, late chamberlain of Argyll.
Mary Macniccol his ſervant.
Niel Sinclair alſo ſervant to the ſaid John Campbell of Clochombie.
George Ronaldſon ſerjeant in general Pulteney's regiment, and captain Lindſay's company.
Colin Campbell changekeeper in Inverary.
Archibald Mackeller fleſher in Inverary.
Thomas Lieth ſoldier in general Pultny's regiment.
Andrew Meldrum likewiſe ſoldier in the ſaid regiment.
John More Maccoll ſervant to the ſaid James Stewart.
John Maccoll, alias Beg Maccoll, alſo ſervant to the ſaid James Stewart.
Dougal Maccoll likewiſe ſervant to the ſaid James Stewart.
Ann Cameron ſervant to the ſaid James Stewart.
Donald Rankine herd to Alexander Stewart of Ballacheliſh.
Katharine Maccoll ſervant to the ſaid James Stewart.
Mary Clerk ſpouſe to Colin Campbell change-keeper in Inverary.
David Stewart brother-german to Duncan Stewart of Glenbuckie.
Alexander Stewart in Auchindarroch.
Evan Cameron ſervant to John Cameron of Stroan.

(Signed) JAMES STEWART.

FINIS.

